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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1910.

No. 372

SAMUEL GOMPERS, JOHN MITCHELL, AND FRANK
MORRISON, PETITIONERS,

THE BUCK'S STOVE & RANGE COMPANY.

ON WRIT OF HABEAS CORPUS TO THE COURT OF APPEALS OF THE
DISTRICT OF COLUMBIA.

PETITION FOR HABEAS CORPUS FILED NOVEMBER 27, 1909.
HABEAS CORPUS AND RETURN FILED FEBRUARY 19, 1910.

(21,915)



(21,911)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1909.

No. 685.

SAMUEL GOMPERS, JOHN MITCHELL, AND FRANK
MORRISON, PETITIONERS.

vs.

THE BUCK'S STOVE & RANGE COMPANY.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE
DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

No. 1990.

SAMUEL GOMPERS ET AL., Appellants,
vs.
THE BUCK'S STOVE & RANGE COMPANY.

a Supreme Court of the District of Columbia.

No. 27305. Equity.

BUCK'S STOVE & RANGE COMPANY, Complainant,
vs.
THE AMERICAN FEDERATION OF LABOR ET AL., Defendants.

UNITED STATES OF AMERICA,
District of Columbia, ss:

Be it remembered, that in the Supreme Court of the District of Columbia, at the City of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above entitled cause, to wit:

1 *Petition.*

Filed July 20, 1908.

In the Supreme Court of the District of Columbia.

No. 27305. Equity.

THE BUCK'S STOVE & RANGE COMPANY, Plaintiff,
vs.
THE AMERICAN FEDERATION OF LABOR ET AL., Defendants.

The petition of The Buck's Stove & Range Company respectfully shows to the Court as follows:

I.

It is a body corporate, organized and existing under the laws of the State of Missouri.

II.

Heretofore, to-wit: the 19th day of August, A. D. 1907, your petitioner filed in this cause its original bill of complaint, naming as defendants, among others, Samuel Gompers, Frank Morrison and John Mitchell, who duly answered the bill and afterwards filed an amended answer to the same, both the said answer and the amended answer being made jointly by them and their co-defendants.

This cause came on to hearing on an application for a temporary injunction, and thereafter, to-wit: the 18th day of December, A. D. 1907, after full hearing, the Court, upon consideration of the said application for an injunction *pendente lite*, and of the evidence submitted with respect thereto, passed and entered in this cause its order enjoining and restraining the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell included, from interfering with the plaintiff in the conduct of its business, the said order being in terms as follows:

"This cause coming on to be heard upon the petition of the complainant for an injunction *pendente lite* as prayed in the bill, and the defendants' return to the rule to show cause issued upon the said petition, having been argued by the solicitors for the respective parties, and duly considered, it is thereupon by the court, this 18th day of December, A. D. 1907, ordered that the defendants, The American Federation of Labor, Samuel Gompers, Frank Morrison, John B. Lennon, James Duncan, John Mitchell, James O'Connell, Max Morris, Denis A. Hayes, Daniel J. Keefe, William D. Huber, Joseph F. Valentine, Rodney L. Thixton, Clinton O. Buckingham, Herman C. Poppe, Arthur J. Williams, Samuel R. Cooper and Edward L. Hickman, their and each of their agents, servants, attorneys, confederates, and any and all persons acting in aid of or in conjunction with them or any of them be, and they hereby are, restrained and enjoined until the final decree in said cause from conspiring, agreeing or combining in any manner to restrain, obstruct or destroy the business of the complainant, or to prevent the complainant from carrying on the same without interference from them or any of them, and from interfering in any manner with the sale of the product of the complainant's factory or business by defendants, or by any other person, firm or corporation, and from declaring or threatening any boycott against the complainant, or its business, or the product of its factory, or against any person, firm or corporation engaged in handling or selling the said product, and from abetting, aiding or assisting in any such boycott, and from printing, issuing, publishing, or distributing through the mails, or in any other manner any copy or copies of the American Federationist, or any other printed or written newspapers, magazine, circular, letter or other document or instrument whatsoever, which shall contain or in any manner refer to the name of the complainant, its business or its product in the 'We Don't Patronize,' or the 'Unfair' list of the defendants, or any of them, their agents, servants, attorneys, confederates, or other person or persons acting in aid of or in conjunction with them or which contains any refer-

ence to the complainant, its business or product in connection with the term 'Unfair' or with the 'We Don't Patronize' list, or with any other phrase, word or words of similar import, and from publishing or otherwise circulating, whether in writing or orally, any statement, or notice, of any kind or character whatsoever, calling attention to the complainant's customers, or of dealers or tradesmen, or the public, to any boycott against the complainant, its business or its product, or that the same are, or were, or have been declared to be 'Unfair,' or that it should not be purchased or dealt in or handled by any dealer, tradesman, or other person whomsoever, or by the public, or any representation or statement of like effect or import, for the purpose of, or tending to, any injury to or interference with the complainant's business, or with the free and unrestricted sale of its product, or of coercing or inducing any dealer, person, firm or corporation, or the public, not to purchase, use, buy, trade in,

4 deal in, or have in possession stoves, ranges, heating apparatus, or other product of the complainant, and from threatening or intimidating any person or persons whomsoever from buying, selling, or otherwise dealing in the complainant's product, either directly, or through orders, directions or suggestions to committees, associations, officers, agents or others, for the performance of any such acts or threats as hereinabove specified, and from in any manner whatsoever impeding, obstructing, interfering with or restraining the complainant's business, trade or commerce, whether in the State of Missouri, or in other States and Territories of the United States, or elsewhere wheresoever, and from soliciting, directing, aiding, assisting or abetting any person or persons, company or corporation to do or cause to be done any of the acts or things aforesaid.

"And it is further ordered by the court that this order shall be in full force, obligatory and binding upon the said defendants and each of them, and their said officers, members, agents, servants, attorneys, confederates, and all persons acting in aid of or in conjunction with them, upon the service of a copy thereof upon them or their solicitors or solicitor of record in this cause; *Provided*, The complainant shall first execute and file in this cause, with a surety or sureties to be approved by the court or one of the justices thereof, an undertaking to make good to the defendants all damage by them suffered or sustained by reason of wrongfully and inequitably suing out this injunction, and stipulating that the damages may be ascertained in such manner as the justice of this court shall direct, and that, on dissolving the injunction, he may give judgment thereon against the principal and sureties for said damages in the

5 decree itself dissolving the injunction.

(Signed)

ASHLEY M. GOULD, *Justice.*"

Thereafter, to-wit: the 23rd day of December, A. D. 1907, an undertaking, in manner and form as required in and by the said order, was entered into and given by the petitioner, and was filed in the cause and approved by the court, whereupon the said order restraining and enjoining the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell, included, became operative,

binding and effective, of which the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell, included, then and there had notice.

III.

Thereafter evidence was taken on behalf of the plaintiff and of the defendants, and the cause duly came on for hearing upon the pleadings and the evidence, and having been duly considered, a final decree was entered in this cause, to-wit: the 23rd day of March, A. D. 1908, perpetually restraining and enjoining the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell included, from conspiring, agreeing or combining to restrain, obstruct or destroy the business of the complainant, and from interfering in any manner with the sale of the product of the complainant's factory, and from doing other things, performing or committing other acts more fully set out in the said decree which, in terms, is as follows:

6 "In the Supreme Court of the District of Columbia.

No. 27305. Equity.

THE BUCK'S STOVE & RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

Final Decree.

The above entitled cause coming on at this time for final hearing, and having been submitted to the court by the respective parties, through their solicitors, upon the pleadings and the evidence, and having been duly considered, it is thereupon by the court this 23rd day of March, A. D. 1908, adjudged, ordered and decreed that the defendants, The American Federation of Labor, Samuel Gompers, Frank Morrison, John B. Lennon, James Duncan, John Mitchell, James O'Connell, Max Morris, Denis A. Hayes, Daniel J. Keefe, William D. Huber, Joseph F. Valentine, Rodney L. Thixton, Clinton O. Buckingham, Herman C. Poppe, Arthur J. Williams, Samuel R. Cooper and Edward L. Hickman, their and each of their agents, servants, attorneys, confederates, and any and all persons acting in aid of or in conjunction with them or any of them be, and they hereby are, perpetually restrained and enjoined from conspiring, agreeing or combining in any manner to restrain, obstruct or destroy the business of the complainant, or to prevent the complainant from carrying on the same without interference from them or any of them, and from interfering in any manner with the sale of the product of the complainant's factory or business by defendants, or by any other person, firm or corporation, and from declaring or threatening any boycott against the complainant, or its business, or the product of its factory, or against any person, firm or corporation engaged in handling or selling

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the said product, and from abetting, aiding or assisting in any such boycott, and from printing, issuing, publishing, or distributing through the mails, or in any other manner, any copies or copy of the American Federationist, or any other printed or written newspaper, magazine, circular, letter or other document or instrument whatsoever, which shall contain or in any manner refer to the name of the complainant, its business or its product in the 'We Don't Patronize' or the 'Unfair' list of the defendants, or any of them, their agents, servants, attorneys, confederates, or other person or persons acting in aid of or in conjunction with them or which contains any reference to the complainant, its business or product in connection with the term 'Unfair' or with the 'We Don't Patronize' list, or with any other phrase, word or words of similar import, and from publishing or otherwise circulating, whether in writing or orally, any statement, or notice, of any kind or character whatsoever, calling attention to the complainant's customers, or of dealers or tradesmen, or the public, to any boycott against the complainant, its business or its product, or that the same are, or were, or have been declared to be 'Unfair,' or that it should not be purchased or dealt in or handled by any dealer, tradesman, or other person whomsoever, or by the public, or any representation or statement of like effect and import, for the purpose of, or tending to, any injury to or interference with the complainant's business, or with the free and unrestricted sale of its product, or of coercing or inducing any dealer, person, firm, or corporation, or the public, not to purchase, use, buy, trade in, deal in, or have in possession stoves, ranges, heating apparatus, or other product of the complainant, and from threatening or intimidating any person or persons whomsoever from buying, selling, or otherwise dealing in the complainant's product, either directly, or through orders, directions or suggestions to committees, associations, officers, agents or others, for the performance of any such acts or threats as hereinabove specified, and from in any manner whatsoever impeding, obstructing, interfering with or restraining the complainant's business, trade or commerce, whether in the State of Missouri, or in other States and Territories of the United States, or elsewhere wheresoever, and from soliciting, directing, aiding assisting or abetting any person or persons, company or corporation to do or cause to be done any of the acts or things aforesaid.

"And it is further adjudged, ordered and decreed that the complainant recover against the defendants the cost of this suit, to be taxed by the Clerk, and that it have execution therefor as at law.

(Signed)

HARRY M. CLABAUGH,
Chief Justice."

IV.

And upon the entering of the said final decree, the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell included, noted an appeal therefrom to the Court of Appeals of the District of Columbia and perfected the said appeal by filing a bond

for costs, which was duly approved by the court, but did not file a supersedeas bond or in any manner supersede or stay the said decree, and it is still in full force and effect and binding upon the said defendants and each of them, the said Samuel Gompers, Frank Morrison and John Mitchell included.

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-V.

Reference is hereby made to the original bill and exhibits filed in support of the same, the answer and amended answer of the defendants, the testimony taken on both sides, the original order restraining and enjoining the defendants *pendente lite* and the final decree in the cause and each and every other paper and proceeding in this cause from the institution of the suit to the filing of this petition, and it is prayed that the same may be taken and read as a part hereof at any and all hearings upon this petition, whether in this court or upon appeal from its decision herein rendered.

VI.

Notwithstanding the said order restraining and enjoining the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell included, passed by the court on the 18th day of December, A. D. 1907, and notwithstanding the final decree in the cause, passed on the 23rd day of March, A. D. 1908, perpetually restraining and enjoining the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell included, all as above set out, the said Samuel Gompers, Frank Morrison and John Mitchell have, since the filing of the said bill and the passage and entry of the said order, as well as of the final decree, frequently, regularly and systematically, willfully and with premeditation, violated the said order and the said final decree alike, and have totally disregarded the same; and, in so doing, they have acted in gross and willful contempt of the authority of the court and its order and action in the premises, as hereinafter set out: the said Samuel Gompers having, some ten

10 years ago, suggested the course of conduct which has been pursued in this case by him and by the said Frank Morrison and John Mitchell, and all of them having since repeated that suggestion.

VII.

Heretofore, to-wit: the 13th day of December, A. D. 1897, at the convention of the defendant, American Federation of Labor, held at Nashville, Tennessee, the said Samuel Gompers, being then, as now, the President of the said defendant, American Federation of Labor, in reporting, as its President, to the convention of the said defendant, used the following language, to be found at pages 23 and 24 of the official report of the proceedings of the American Federation of Labor for the year 1897, which were prepared, authenticated and circulated by the said Frank Morrison, he being then, as now, Secretary of the defendant, American Federation of Labor, and which were published by order of the said convention, and, by like order, republished by the said Frank Morrison in or about the year 1905:

"Boycotts and Court Decisions.

"Recently one of the branches of the Federal Courts decided by a majority vote that the boycott is illegal. Whether the decision rendered is applicable to all cases or simply to the one immediately under consideration has not yet fully transpired. It is manifest that the workers should have the same right which other citizens enjoy, the right whith neither constitutions grant nor courts can deny—the right to stand by our friends, patronize our sympathizers and co-operators, and to withhold our patronage from those who are antagonistic to us and our cause, and the further right to acquaint our people with our preferences. While there is no desire here to
 11 argue in favor of our rights, we should demand the change of any law which curbs the privilege and the right of the workers to exercise their normal and natural preferences. In the meantime, we should proceed as we have of old, and wherever a court shall issue an injunction restraining any of our fellow workers from placing a concern hostile to labor's interest on our unfair list; enjoining the workers from issuing notices of this character, the further suggestion is made that upon any letter or circular issued upon a matter of this character, after stating the name of the unfair firm and the grievance complained of, the words, 'We have been enjoined by the courts from boycotting this concern,' could be added with advantage."

And the conduct and acts of the said Samuel Gompers hereinafter set out have been designed and carried out in accordance with the scheme or plan so outlined by him at the convention of the defendant, American Federation of Labor, held at Nashville in December, 1897.

VIII.

And, when on the stand as a witness for the defendants in this cause, on January 30, 1908, the attention of the said Samuel Gompers, on cross examination, was called to the portion of his report to the Nashville, 1897, convention set out in the last paragraph of this petition, and he was thereupon interrogated, and replied in respect to the same, as follows:

"Q. Have you ever recalled that suggestion? A. No, sir; I would rather reaffirm it.

Q. You would reaffirm it? A. It is a very long quotation, and my answer requires some little amplification of it, so that I
 12 may be fully understood.

"Q. This is the particular part to which I desire to direct your attention (reading):

"In the meantime we should proceed as we have of old, and wherever a court shall issue an injunction restraining any of our fellow workers from placing a concern hostile to labor's interest on our unfair list; enjoining the workers from issuing notices of this character, the further suggestion is made that upon any letter or circular issued upon a matter of this character, after stating the name of the unfair firm and the grievance complained of, the words "We

have been enjoined by the Courts from boycotting this concern" could be added with advantage.'

You have stated that you have never recalled that? A. No, sir; I have never recalled it, and I think—you can imagine that in a report, the whole subject can not be comprehended.

"Q. You can explain it later. You have answered it sufficiently. We want to get along. A. Just let me make a memorandum, then, so that I will not forget it."

And on re-direct examination, he was asked the following question and made the following answer:

"Q. In asking you about the report of 1897, Mr. Davenport said you made reference to a decision then which enjoined boycotts and which, in your report, you said whether it was general or not, you could not determine, etc., and then you requested to be permitted at that time to go on and say something further; but you were
13 not allowed to do so. Is there anything now that you care to say about that report? A. I suggested to the organizations of labor that they make the statement that they had been enjoined, if an injunction had been issued, by a court—a single statement of fact."

IX.

Thereafter, in the November, 1902, number of the American Federationist, of which the said Samuel Gompers was then, as he now is, its duly authorized editor, in the editorial column thereof, under the name of the said Samuel Gompers, at page 808, he printed and published the following:

"We beg to say plainly and distinctly to Mr. Merritt and fellow sympathizers that the American Federation of Labor will never abandon the boycott, and that the threats against the Federation are idle, impotent and impudent."

The said American Federationist, as set out in paragraph IV of the original bill in this cause, is the official organ of the said defendant, American Federation of Labor, and has a wide circulation, not only among the members of the said Federation, but among the public generally.

X.

The original bill in this cause having been filed on to-wit: the 19th day of August, A. D. 1907, and the process of subpoena having been served upon the said Samuel Gompers, as a defendant named in the bill, on to-wit: the 20th day of August, A. D. 1907, thereafter, to-wit: on the same day, or the day following, the said Samuel Gompers not only stated his intention of not complying with any order which might be passed by the court pursuant to the prayers of the said bill, but publicly stated such intention in an interview
14 with the representatives of three prominent newspapers, and the said interview was extensively published throughout the country, including the City of Washington, in the District of Columbia. In the course of said interview so published, the said Samuel Gompers said: "When it comes to a choice between surrendering

my rights as a free American citizen or violating the injunction of the courts, I do not hesitate to say that I shall exercise my rights, as between the two." This statement of the said Samuel Gompers, at or about the time of the filing of the bill in this cause, was made in accordance with, and pursuant to, the suggestion and purpose outlined by him at the Nashville convention above mentioned, ten years earlier.

XI.

Thereafter, to-wit: on the 5th day of September, A. D. 1907, the said Samuel Gompers, at the Jamestown Exposition, in the course of his Labor Day speech, delivered as a public address, said:

"An injunction is now being sought from the Supreme Court of the District of Columbia against myself and my colleagues of the executive council of the American Federation of Labor. It seeks to enjoin us from doing perfectly lawful acts; to deprive us of our lawful and constitutional rights. So far as I am concerned, let me say that never have I, nor ever will I, violate a law. I desire it to be clearly understood that when any court undertakes without warrant of law by the injunction process to deprive me of my personal rights and my personal liberty guaranteed by the Constitution, I shall have no hesitancy in asserting and exercising those rights."

15 This language of the said Samuel Gompers was published broadly and generally in the daily press throughout the country, as he knew it would be. Not only so, but in the October, 1907, number of the American Federationist he published the same at length in the editorial column of the said publication, under his own name, at page 789 thereof. And the said Samuel Gompers has, on numerous occasions since then, repeated and reaffirmed his said threats to violate any injunctive process of the court in this case which should be issued, and which has been issued, and is now in force, against him, and has carried out his said threats by persistently violating the said injunctive process.

XII.

In the same October, 1907, number of the American Federationist, at page 785, in the editorial column thereof, under his own name, after reciting on the preceding page the filing of the original bill in this cause and the institution of the present suit, the said Samuel Gompers used the following language, referring directly and specifically to this cause:

"So long as the right of free speech and free press obtains, we shall publish the truth in regard to all matters. If any person or association challenges the accuracy of any of our statements, we are willing to meet him or them in the courts and defend ourselves. So long as we do not print anything which is libelous or seditious, we propose to maintain our rights and exercise liberty of speech and liberty of the press. If for any reason, at any time, the name of the Buck's Stove and Range Company does not appear upon the

16 *'We Don't Patronize'* list of the American Federationist (unless that company becomes fair in its dealings toward labor), all will understand that the right of free speech and free press are denied us; but even this will not deprive us, or our fellow-workmen and those who sympathize with our cause, from exercising their lawful right and privilege of withholding their patronage from the Van Cleave Company—the Buck's Stove and Range Company of St. Louis.

"So far as we are personally and officially concerned, we have fully stated our position in the American Federationist and elsewhere.

"Do not fail to keep the Buck's Stove and Range Company of St. Louis in mind and remember that it is on the unfair list of organized labor of America."

XIII.

And in the same October, 1907, number of the American Federationist, at pages 791 and 792 thereof, in the column headed "Editorial Notes," the said Samuel Gompers, referring to this cause, used the following language:

"So labor must not use its patronage as it will—that is, if Van Cleave of Buck's Stove and Range Company fame has his way. But what vested right has that company in the patronage of labor or of labor's friends? It is their own to withhold or bestow as their interest or fancy may direct.

"They have a lawful right to do as they wish, all the Van Cleaves, all the injunctions, all the fool or vicious opponents to the contrary notwithstanding.

17 "Wonder whether Van Cleave will try for an injunction compelling union men and their friends to buy the Buck's Stove and Range Company's unfair product?"

"Until a law is passed making it compulsory upon labor men to buy Van Cleave's stoves we need not buy them, we won't buy them and we will persuade other fair-minded, sympathetic friends to co-operate with us and leave the blamed things alone.

"Go to — with your injunctions."

And, under the same heading, he published the following additional statement:

"The Buck's Stove and Range Company of St. Louis (of which Mr. Van Cleave is president) will continue to be regarded and treated as unfair until it comes to an honorable agreement with organized labor. And this, too, whether or not it appears on the *'We Don't Patronize'* list."

Pursuant to said declarations and threats of the said Samuel Gompers, the name of petitioner has been retained and published in the "Unfair" list in the journal of the International Metal Polishers Union, described in the original bill in this cause, to-wit: in its issues of November and December, 1907, and January, February, March, April, May, June and July, 1908, as will be seen by reference to the said issues, herewith filed as Exhibit Petitioner No. 4.

XIV.

Thereafter, on to-wit: the 14th day of November, A. D. 1907, the application for an injunction *pendente lite* came on for hearing before the court, and the hearing of the same occupied several days, at the conclusion of which the cause was taken under consideration by the presiding justice. After the cause had been submitted to the court, and before its decision in the premises had been rendered, the said Samuel Gompers and Frank Morrison, in anticipation of the granting of said application, and for the purpose of nullifying and defeating the effect of any injunction which should be issued in the premises, prepared, published and distributed a circular letter, signed by the said Samuel Gompers and Frank Morrison, copies of which were by them transmitted and caused to be transmitted to the various unions affiliated with the American Federation of Labor in the several States and Territories of the United States and Canada, on or about its date, November 26, 1907, to the number of twenty-seven thousand, as will be seen by reference to the stipulation of counsel for the respective parties, filed in this cause on to-wit: the 8th day of April, A. D. 1908. The said circular letter is, in part, as follows:

“Mr. Van Cleave, for The Buck's Stove & Range Company, brought suit against the American Federation of Labor and its Executive Council and has petitioned the court for an injunction to prohibit the American Federation of Labor from in any way advising Organized Labor and its friends of the fact that The Buck's Stove & Range Company is unfair to its employees and for that reason its name is published upon the American Federation of Labor ‘We Don't Patronize’ list.

“The Court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove & Range Company upon the ‘We Don't Patronize List.’ Should we be enjoined by the Court from doing so, the merits of the case will not be altered nor can any court decision take from any man the right to bestow his patronage where he pleases.”

The said letter, so prepared, issued and caused to be circulated by the said Samuel Gompers and Frank Morrison, further stated:

“Bear in mind that you have a right to decide how your money shall be expended.

“You may or may not buy the products of The Buck's Stove & Range Company.

“There is no law or edict of court that can compel you to buy a Buck's Stove or Range.

“You can not be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove & Range Company's products of its unfair attitude toward its employees and ask them to give their sympathy and aid in influencing the Buck's Stove & Range Company to deal fairly with its em-

ployees and come to an honorable agreement with the Union primarily at interest.

"It would be well for you as central bodies, local unions and individual members of organized labor and sympathizers to call on business men in your respective localities, urge their sympathetic cooperation and ask them to write to The Buck's Stove & Range Company of St. Louis, urging it to make an honorable adjustment of its relations with organized labor.

"Act energetically and at once. Report the result of your effort to the undersigned.

"SAM'L GOMPERS,

"President American Federation of Labor."

"FRANK MORRISON, Secretary."

20

XV.

And thereafter, to-wit: the 17th day of December, A. D. 1907, the court filed its opinion in the cause, to the effect that the complainant was entitled to the injunction *pendente lite* as prayed in the original bill, and on to-wit: the 18th day of December, A. D. 1907, passed the order set out in paragraph II of this petition. The said order became operative and effective by the giving of the undertaking required by it on to-wit: the 23rd day of December, A. D. 1907, and has never been revoked or altered. Notwithstanding the passage and entry of this order, and the taking effect of the same by the giving of the undertaking, as aforesaid, the said Samuel Gompers and Frank Morrison, having set in motion the instrumentalities devised by them for the obstruction and nullification of the order when entered, have failed to take any action whatever to prevent that result, but, on the contrary, have since taken other steps, as will hereafter appear, for the more effectual carrying out of the plan and purpose outlined in said circular letter.

XVI.

The order for an injunction *pendente lite* having been passed on the 18th day of December, A. D. 1907, and the injunction having taken effect and become operative on the 23rd day of December, A. D. 1907, as above stated, the said Samuel Gompers, as will be seen by reference to his deposition in this cause, hastened or "rushed" the publication of the January, 1908, issue of the American Federationist, with a view to circulating the same during the time which should elapse between the passage of the said order for an injunction, and the injunctive order itself. The said January, 1908, number, at page 51, includes and publishes in full the
21 "We Don't Patronize" or "Unfair" list of the American Federation of Labor, containing the name of petitioner; and at page 38 of the said issue, the said Samuel Gompers published the following:

"A limited number of the American Federationist for 1907, bound in two volumes, may be had on application to this office.

The 1907 volumes are bound in the same style as the preceding years.

"The official printed proceedings of the Norfolk convention of the A. F. of L. are now ready and can be had upon application by mail, 25 cents per single copy, \$20. per hundred. Postage prepared by the A. F. of L."

The said proceedings of the Norfolk convention contain, at page 91, the name of petitioner as being on the "Unfair" list of the American Federation of Labor.

Notwithstanding the fact that the injunction *pendente lite* had taken effect on the 23rd day of December, A. D. 1907, the said Samuel Gompers and the said Frank Morrison thereafter continued to circulate and distribute the said issue, containing the name of petitioner as aforesaid, and notwithstanding the fact that the permanent injunction has since been entered in this cause, they have, from the said 23rd day of December, A. D. 1907, to the present time, continued, uninterruptedly, to circulate and distribute to the public generally copies of the said January, 1908, number of the American Federationist, of the proceedings of the Norfolk convention above mentioned, and bound copies of the American Federationist for the year 1907, the latter containing, in each of the May, June, July, August, September, October, November and December numbers thereof, the name of petitioner on the "We Don't Patronize" or "Unfair" list of the American Federation of Labor; all in violation and willful disregard and contempt of the injunctive order and decree of the court in this cause.

XVII.

Thereafter, to-wit: in the February, 1908, number of the American Federationist, the said Samuel Gompers, in the editorial column thereof, under his own name, published a lengthy article concerning the said order, at pages 98 to 105, inclusive, and the said Samuel Gompers, Frank Morrison and John Mitchell published, at pages 112 and 113 of the said number of the American Federationist, what they denominated an "Urgent Appeal," signed by the defendant Samuel Gompers, as President, the defendant Frank Morrison, as Secretary, and the defendants James Duncan, John Mitchell, James O'Connell, Max Morris, D. A. Hayes, Daniel J. Keefe, William D. Huber, Joseph F. Valentine, as Vice Presidents, and the defendant John B. Lennon, as Treasurer, composing the Executive Council of the American Federation of Labor, in which they made special reference to said editorial article as containing a full presentation of the said defendants' position in regard to said order of injunction. In the course of both the said editorial and the said "Urgent Appeal," it was stated that the order is an invasion of the liberty of the press and the right of free speech, and further stated in said editorial that "With all due respect to the court, it is impossible for us to see how we can comply with all the terms of this injunction," and further stated in said editorial as follows:

"This injunction can not compel union men or their friends to

- 23 buy the Buck's stoves and ranges. For this reason, the injunction will fail to bolster up the business of this firm, which it claims is so swiftly declining.

"Individuals, as members of organized labor, will still exercise the right to buy or not to buy the Buck's stoves and ranges. It is an exemplification of the saying that 'You can lead a horse to water, but you can't make him drink,' and more than likely these men of organized labor and their friends will continue to exercise their right to purchase or not purchase the Buck's stoves and ranges.

"It may not be amiss here to say that in all these proceedings, whether before the court or in the contest forced upon labor by The Buck's Stove and Range Company, no element of personal malice or ill-will enters. Labor is earnestly desirous of entering into friendly relations with employers, and this is none the less true of its desire to reach an honorable adjustment and agreement with The Buck's Stove and Range Co. So long, however, as that company continues in its hostile attitude to labor, denying it the right to organize, discriminates against union members, and refuses to accord conditions of employment generally regarded as fair in the trade, it must expect retaliatory measures; these measures always, however, within the law and for the purpose of ultimately reaching an honorable, mutually advantageous agreement.

"The publication of The Buck's Stove and Range Co. on the 'We Don't Patronize' list of the American Federation of Labor is only an incident in the history of the case. These stoves might have been left as severely alone by purchasers if they had never been mentioned on that list. It is not the matter of removing that firm from the list against which we primarily protest, it is this injunction invading the freedom of the press."

- 24 And, at pages 114 and 115 of the said February, 1908, number of the American Federationist, the said Samuel Gompers published the order itself at length, prefacing the same with the following statement:

"In the official organ of the National Association of Manufacturers, one of the counsel for the Buck's Stove and Range Company declares that punishment for violation of the injunction issued by Justice Gould, against the American Federation of Labor, applies particularly to those within the territorial limits of the District of Columbia who violate the terms of the injunction. That those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia. Counsel for the American Federation of Labor assure us that this construction of the court's order is accurate."

Petitioner is advised and believes, and therefore avers, that the said statement prefacing the publication of the order of December 18, 1907, is an incorrect interpretation of the effect of the said order, and was made for the purpose of defeating, and of inducing others to violate, the same; and that the publication of the said order, prefaced as aforesaid, and of the said editorial, constituted a violation of the injunction *pendente lite* and a contempt of the

order of the court. A copy of the said February, 1908, number of the American Federationist is herewith filed, marked Exhibit Petitioner No. 1, and it is prayed that the said editorial, the said "Urgent Appeal," and the references on pages 114 and 115 thereof to the said order, be taken and read as a part of this petition.

XVIII.

The said John Mitchell, as set out in paragraph IV of the original bill in this cause, is a vice president and a member of the Executive Council of the defendant, American Federation of Labor. Until the first day of April A. D. 1908, and for many years prior thereto, he was also the President of the United Mine Workers of America, one of the subordinate national and international unions of the defendant, American Federation of Labor, referred to in paragraph IV of the original bill in this cause and in Exhibit C thereto attached, and the Chairman of its Executive Board, by which Executive Board is published weekly the United Mine Workers' Journal, the official organ of the said United Mine Workers of America. In the issue of the said United Mine Workers' Journal of January 30, 1908, the said John Mitchell caused or permitted to be published the above mentioned editorial, "Urgent Appeal" and statement prefacing the said injunction order as published in the February, 1908, number of the American Federationist, as will be seen by reference to pages 6, 15 and 16 of the said issue of January 30, 1908, a copy of which is herewith filed, marked Exhibit Petitioner No. 2, and prayed to be taken and read as a part of this petition. The said United Mine Workers of America comprise several hundred thousand members, and its official organ is circulated generally among the members of the said association, and the public at large.

On to-wit: the 25th day of January, A. D. 1908, at the Nineteenth Annual Convention of the United Mine Workers of America, held at Indianapolis, Indiana, the defendant John Mitchell, its President, being in the chair, the following resolution was laid before the convention by the said defendant John Mitchell, put to a vote and adopted unanimously, and by him so declared:

"Resolution No. 73.

"Whereas, The Buck's Stove and Range Company, of St. Louis, Mo., have taken legal steps to prevent organized labor in general, and the officers and executive committee of the A. F. of L., in particular, from advertising the above named firm as being on the 'unfair' or 'we don't patronize' list, and

"Whereas, By the issue of such an injunction or restraining order as prayed for by above named firm, organized labor will be deprived of one of its most effective weapons, and

"Whereas, J. W. Van Cleave, the president of above named firm, also president of the National Manufacturers' Association, stated that in a few years' time he would disrupt organized labor; therefore, be it

"Resolved, That the U. M. W. of A., in Nineteenth Annual Convention assembled, place the Buck's stoves and ranges on the unfair list, and any member of the U. M. W. of A. purchasing a stove of above make be fined \$5.00 and failing to pay the same be expelled from the organization."

And, thereafter, to-wit: the 30th day of January, A. D. 1908, the said John Mitchell caused or permitted the official report of the proceedings of the said convention to be published in the above mentioned issue of the said United Mine Workers' Journal, including the said resolution and the action taken thereupon, as will be seen by reference to page 7 of Exhibit Petitioner No. 2, above referred to.

27 And the said John Mitchell also caused or permitted the following to be published on the front page of the issue of the said United Mine Workers' Journal of the 9th day of January, A. D. 1908, as will be seen by reference to a copy of said issue herewith filed, marked Exhibit Petitioner No. 3, and prayed to be taken and read as a part of this petition:

"Unlawful Boycott.

"Our readers should govern themselves accordingly and allow all to live unmolested.

"Here is something clever and cute from the Galesburg Labor News:

'Whether or not the Manufacturers' Association, who were behind the Buck Stove and Range Company in instigating the suit, will accomplish their desired results is difficult to say. Trades unionists will fail to see wherein they will. For no power on earth can compel a man to buy something he does not want to and an announcement something on this order is enough to indicate to a union man what not to buy:

It is unlawful for the American Federation of Labor to Boycott Buck Stoves and Ranges.

'Justice Gould, in the Equity Court of the District of Columbia, on December 17th, handed down a decision granting the company a temporary injunction preventing the Federation from publishing this firm as

Unfair to Organized Labor.

"The above could hardly be construed to conflict with the law, since it is a statement of facts."

"A funny thing about this case is that the boycott has been on this firm for more than a year. Now, the unions have their attention directed to it for fair."

28 And the peculiar arrangement of type in the said article, whereby particular display is given to the words "Boycott Buck Stoves and Ranges" and "Unfair to Organized Labor," without making these direct statements in the context of the article published, was devised and designed for the express purpose of violating the injunction of this court, whereby the publication of these statements is forbidden, and of causing the said publication to

be reprinted and distributed and scattered broadcast throughout the land.

The said publication in the January 9, 1908, issue of the United Mine Workers Journal was taken up and followed by the labor press, as it was intended to be, and was extensively reprinted, and circulated broadly, throughout the country, including the Cleveland Citizen, of Cleveland, Ohio, published by the United Trades and Labor Council of that City, in its issue of January 18, 1908; the Labor Journal, the official organ of the New York Allied Printing Trades Council and of the Central Trades and Labor Council, published at Rochester, New York, in its issue of January 10, 1908; the St. Louis Labor, published at St. Louis, Missouri, in its issue of January 18, 1908, and in its weekly issues from then to the present time, and the Springfield Tradesman, published at Springfield, Missouri, in its issue of January 18, 1908; all as will be seen by reference to the deposition of the said Samuel Gompers, on file and of record in this cause, and the exhibits herewith filed, to all of which reference is hereby made.

XIX.

Thereafter, to-wit: in the March, 1908, number of the American Federationist, the said Samuel Gompers, in the editorial column thereof, at page 192, in pursuance of his plan to nullify the said order of the court in this cause passed, to disregard and disobey the same, to injure and interfere with the petitioner's business and the sale of its product by means forbidden in the said order, and to induce the members of the American Federation of Labor, and the public, not to patronize the petitioner, or buy its product, and to keep the boycott against the petitioner constantly in mind, and to maintain the same, though forbidden to do so by the said order, published the following statement:

"It should be borne in mind that there is no law, aye, not even a court decision, compelling union men or their friends of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat."

XX.

And, for the like purpose, the said Samuel Gompers and the said Frank Morrison published, in the April, 1908, number of the American Federationist, the statements hereafter referred to; the final decree in this cause granting a permanent injunction against the defendants, the said Samuel Gompers and Frank Morrison included, having been entered on the 23rd day of March, A. D. 1908, and prior to the publication of the said April, 1908, number.

In the editorial column thereof, under his own name, the said Samuel Gompers published, at page 279, the following:

"The temporary injunction issued by Justice Gould, of the Court of Equity, of the District of Columbia, in the (Van Cleave) Buck's Stove and Range Company of St. Louis against the American Federation of Labor, its officers and all others, has been made permanent. The case will now be carried to the Court of Appeals of the District of Columbia.

30 "It should be borne in mind that there is no law, aye, not even a court decision, compelling union men or their friends

of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat."

And in the official column of the said issue, at page 295, over their signatures, in an official letter addressed to state branches and central bodies, the said Samuel Gompers and Frank Morrison published the following statement:

"Bear in mind that an injunction issued by a court in no way compels labor or labor's friends to buy the product of the Van Cleave Buck's Stove and Range Company of St. Louis.

"Fellow workers, be true and helpful to yourselves and to each other. Remember that united effort in cause of right and just must triumph."

XXI.

Thereafter, to-wit: on the 19th day of April, A. D. 1908, in the course of a public address to a large gathering of working people in the City of New York, the said Samuel Gompers, for the like purpose, made the following statement:

"They tell us that we must not boycott. Well, if the boycott is illegal, we won't boycott. But I have no knowledge that any law has been passed or any order issued by any court compelling us to buy, for instance, a range or a stove from the Buck's Stove and Range Company. You know that myself and several others are enjoined from telling you, and we are not prepared to tell you, that the Buck's Stove and Range Company is unfair. There are a number of men who have been having suit brought against them for two hundred and forty thousand dollars. That is not very much,

31 between you and me; but a few hatters in Danbury, Connecticut, are being sued for saying that Loewe and Company, hat manufacturers, of Danbury, Connecticut, are unfair. I am not prepared to say that that is in violation—that they are unfair.

"Of course, in the case of the Buck's Stove and Range Company, if I told you that the Buck's Stove and Range Company was still unfair, when I got back to Washington to-morrow, or some place where they say people play checkers with their noses—well, as I say, I am not prepared to tell you that these things are unfair. But there is no law, no court decision that compels you to buy them, nor does any law compel you to buy anything without the union label.

"But boycotting, I think—I am sure that the term itself has been coined within my lifetime. Boycotting, in its essence and effect and practice, has been in vogue since man began. I do not care what conception you may have of the beginning of human existence. I still assert that the word 'boycott' had its origin from the beginning of man's life. Of course, it was not known as the boycott.

"The term 'boycott' originated in Ireland about twenty-five years ago, when the people of the Green Isle were up in protest against British misrule, and they adopted a plan against a certain agent for one of the land owners. This agent was known by the name of Captain Boycott. They did not say they were going to boycott him,

but they simply said, in the language of the time, that they were going to send — to Coventry. Coventry was not an attractive country place, so that after the action had been accomplished in regard to

32 this gentleman, the term, instead of sending anyone to Coventry, was changed to boycotting him! in other words, it was either an implied understanding or an expressed declaration that the people would have no dealings with him insofar as it was possible. And then came the word 'boycott,' and it has come into our dictionaries and into our lexigraphs, as well as into our court decisions. Now, my friends, I do not think that what it is human to do, what it is human and humane to do, can be by any species of mis-interpretation expected to be an illegal or improper act. You can not make me buy anything I do not want to buy. I can tell my friends to do likewise, and they have a right to do what I have a lawful right to do and I have a legal right to tell them to do. No man has a vested right in my patronage. I have a right to bestow; I have a right to withhold and transfer it to anyone else, and I want to say this about that, injunction or no injunction, I won't buy a Loewe hat nor a Buck's stove or range."

And the said Samuel Gompers made the foregoing remarks in pursuance of his plan of violating, disregarding and disobeying the said order of the court and keeping the boycott against this petitioner in the minds of the members of the American Federation of Labor, and of the public, and for the purpose of urging and encouraging the enforcement of the said boycott against the petitioner, of deterring dealers from buying petitioner's product or offering same for sale, and of ruining and destroying its business.

XXII.

And, in pursuance of his said plan, and for the like purpose, thereafter, in the editorial column of the May, 1908, number of the American Federationist, under his own name, at page 33 383, the said Samuel Gompers published the following statement:

"I want to assure you on my word of honor that so long as I live I will never buy a Loewe hat or a Buck's stove or range until these gentlemen come into agreement with organized labor and grant us conditions of fairness. Then they will get support and help. Until then, you may call it by any other name—boycott or no boycott—but I won't buy your hats anyhow."

XXIII.

And, in further pursuance of his said plan, and for the like purpose, the said Samuel Gompers, in a public address delivered before a large gathering of working people on to-wit: the first day of May, A. D. 1908, in the City of Chicago, Illinois, made the following statement:

"I might say just parenthetically about the hatters' case that you are not now permitted to boycott the Loewe hats, but I want to call your attention to the fact that there is no law compelling you to wear a Loewe hat, nor has any judge issued a mandamus compelling you

to buy a Loewe hat. That applies equally to Mr. Van Cleave's stoves and ranges. And, by the way, I don't know why you should buy any of that sort of stuff. I won't; but that is a matter to which we can refer more particularly in our organizations."

And thereafter, for the purpose of more widely disseminating the said statement, the said Samuel Gompers published the same in the June, 1908, number of the American Federationist, at pages 467 and 468 thereof.

34

XXIV.

And, for the purpose of more effectually carrying out his said plan, and for the like purpose, the said Samuel Gompers, thereafter, in the editorial column of the July, 1908, number of the American Federationist, at page 531 thereof, under his own name, published the following statement:

"The Supreme Court of the District of Columbia has made permanent the injunction issued by Justice Gould enjoining the American Federation of Labor, its officers, its affiliated unions and their members and friends from declaring that the Van Cleave Buck Stove and Range Company of St. Louis is on the unfair list of the American Federation of Labor or the publication of that statement in the American Federationist. An appeal will be taken to the Court of Appeals of the District of Columbia, and, if necessary, to the United States Supreme Court. The injunction does not compel anyone to buy the Van Cleave Buck Stoves and Ranges, nor has any decree been issued compelling anyone to buy Loewe's hats."

XXV.

Each and every of the issues of the American Federationist in this petition mentioned has been circulated and distributed, in large numbers, by the defendant Frank Morrison, Secretary of the defendant American Federation of Labor, and circulating and distributing agent of the American Federationist, and the said issues have been so distributed by him, in disregard and violation of the order and decree of the court in the premises, among the various subordinate unions of the defendant American Federation of Labor, as described in paragraph IV of the original bill in this
35 cause, and also to the public, and extensively read throughout the country; and the said Frank Morrison, in so doing, has been fully aware of the contents of the said publication, and prompted by the same purposes which controlled and influenced the defendant Samuel Gompers in preparing and delivering the writings and speeches so set out in the said issues of the American Federationist.

XXVI.

Though the said Samuel Gompers, Frank Morrison, John Mitchell and the other defendants to the original bill, their and each of their agents, servants, attorneys, confederates, and any and all persons acting in aid of or in conjunction with them or any of them, are, by the order of this court of December 18, 1907, restrained and en-

joined pending litigation, and by the order of March 23rd, 1908, perpetually restrained and enjoined from conspiring, agreeing or combining in any manner to restrain, obstruct or destroy the business of the complainant, or to prevent the complainant from carrying on the same without interference from them or any of them, and from interfering in any manner with the sale of the product of the complainant's factory or business by defendants, or by any other person, firm or corporation, and from declaring or threatening any boycott against the complainant, or its business, or the product of its factory, or against any person, firm or corporation engaged in handling or selling the said product, and from abetting, aiding or assisting in any such boycott, and from printing, issuing, publishing, or distributing through the mails, or in any other manner, any copies or copy of the American Federationist, or any other printed or written newspapers, magazine, circular, letter or other document

or instrument whatsoever, which shall contain or in any
 36 manner refer to the name of the complainant, its business or its product in the "We Don't Patronize" or the "Unfair" list of the defendants, or any of them, their agents, servants, attorneys, confederates, or other person or persons acting in aid of or in conjunction with them, or which contains any reference to the complainant, its business or product, in connection with the term "Unfair," or with the "We Don't Patronize" list, or with any other phrase, word or words of similar import, and from publishing or otherwise circulating, whether in writing or orally, any statement, or notice, of any kind or character whatsoever, calling attention to the complainant's customers, or of dealers or tradesmen, or the public, to any boycott against the complainant, its business or its product, or that the same are, or were, or have been declared to be "Unfair," or that it should not be purchased or dealt in or handled by any dealer, tradesman, or other person whomsoever, or by the public, or any representation or statement of like effect or import, for the purpose of, or tending to, any injury to or interference with the complainant's business, or with the free and unrestricted sale of its product, or of coercing or inducing any dealer, person, firm, or corporation, or the public, not to purchase, use, buy, trade in, deal in, or have in possession stoves, ranges, heating apparatus, or other product of the complainant, and from threatening or intimidating any person or persons whomsoever from buying, selling, or otherwise dealing in the complainant's product, either directly, or through orders, directions or suggestions to committees, associations, officers, agents or others, for the performance of any such acts or threats as
 37 hereinabove specified, and from in any manner whatsoever impeding, obstructing, interfering with or restraining the complainant's business, trade or commerce, whether in the State of Missouri, or in other States and Territories of the United States, or elsewhere where-soever, and from soliciting, directing, aiding, assisting or abetting any person or persons, company or corporation to do or cause to be done any of the acts or things aforesaid; yet, by the acts, means, devices and subterfuges aforesaid, the said Samuel Gompers, Frank Morrison and John Mitchell have designed

and sought to continue in force and effect, and have continued in force and effect, in willful disregard, violation, disobedience and contempt of the aforesaid order and decree of this court, the boycott against petitioner, and the conspiracy recited in the bill to destroy its business, which they and the other defendants have been and are, by the said order and decree, restrained and enjoined from continuing:

Wherefore, petitioner prays as follows:

(1) That a rule be laid upon the said Samuel Gompers, Frank Morrison and John Mitchell, requiring each of them to show cause, at a time to be fixed by the court in said rule, why the writ of attachment should not issue against him, and why he should not be adjudged by the court to be in contempt of its order and its decree in this cause, and be punished for the same.

(2) And that petitioner may have such other and further relief as the nature of its case may require.

[SEAL.] THE BUCK'S STOVE & RANGE COMPANY,
By J. W. VAN CLEAVE, *President*.

Attest:

P. A. SAMPLIN,
Ass't Sec'y.

38 W. C. SULLIVAN,
DANIEL DAVENPORT,
JAMES M. BECK,
J. J. DARLINGTON,
Solicitors.

STATE OF MISSOURI,
City of St. Louis, ss:

I, James W. Van Cleave, on oath say that I am President of The Buck's Stove and Range Company, the petitioner named in the foregoing and annexed petition, whose name I have subscribed and whose seal I have affixed thereto in my said capacity, in which capacity I make this affidavit; that I have read the said petition and know the contents thereof; that the allegations therein set forth upon personal knowledge are true, and that those set forth upon information and belief I believe to be true.

JAMES W. VAN CLEAVE.

Subscribed and sworn to before me, this 17th day of July, A. D. 1908.

[SEAL.]

C. C. CRONE,
Notary Public, City of St. Louis.

My term expires July 6/1909.

39

Rule to Show Cause.

Filed July 20, 1908.

In the Supreme Court of the District of Columbia.

No. 27305. Eq.

THE BUCK'S STOVE AND RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

Upon consideration of the petition of The Buck's Stove and Range Company, this day filed, it is thereupon by the court, this 20th day of July, A. D. 1908, ordered that each of the defendants Samuel Gompers, Frank Morrison and John Mitchell show cause, on or before Tuesday the 8th day of September, A. D. 1908, why the writ of attachment should not issue against him, and why he should not be adjudged to be in contempt of the order and decree of the court in this cause passed, and be punished for the same.

And it is further ordered that a copy of this rule be served upon each of the said defendants Samuel Gompers, Frank Morrison and John Mitchell, at least thirty days before the said return day.

THOS. H. ANDERSON, *Justice.**Marshal's Return.*

Served copy of the within order on Samuel Gompers and Frank Morrison personally July 21, 1908, and on John Mitchell personally August 20, 1908.

AULICK PALMER, *Marshal.*
H.

40

Answer of Samuel Gompers to the Rule to Show Cause.

Filed September 9, 1908.

In the Supreme Court of the District of Columbia.

No. 27305. Equity.

BUCK'S STOVE AND RANGE COMPANY

vs.

AMERICAN FEDERATION OF LABOR.

The answer of Samuel Gompers to the rule to show cause issued against him on July 20, 1908, why he should not be adjudged in contempt of the orders and decrees of this Court in this cause passed, and to the petition in support thereof, respectfully shows—

1. Answering the first paragraph of the petition, this respondent neither admits nor denies the allegations therein contained.

2, 3, 4, 5. Answering the second, third, fourth and fifth paragraphs of the petition, this respondent admits the truth of the allegations contained therein, but, for greater accuracy, refers to the record in this cause.

6. Answering the sixth paragraph of the petition, this respondent says that he denies absolutely that he has, since the entry of the said order as well as that of the final decree, at any time violated the said order and the said final decree alike or totally disregarded same, and denies that he has acted in any contempt whatever of the authority of the Court or its order and action in the premises. He says that while the petition charges him with having been guilty

of contempt since the filing of the bill and even before the
41 entry of any order, he is at a loss to understand how he could have been guilty of contempt in a case as to which the Court has not acted. He denies that he had, some ten years previously,

suggested any course of conduct with reference to this case and, not having been a clairvoyant, he was unable to anticipate its bringing prior to the time when such bill was filed in this Court, and, therefore, unable to suggest any line of conduct with relation thereto.

7. Answering the seventh paragraph of said petition, this defendant says that he admits the correctness of the extracts therein contained and denies the inferences sought to be drawn therefrom with relation to this case.

8. Answering the eighth paragraph of said petition this defendant says that he admits the correctness of the extracts contained therein, but, for greater accuracy, refers to the record.

9. Answering the ninth paragraph of said petition, this defendant says that he admits the correctness of the extract contained therein, but denies that it had any application whatever to the petition herein. He admits that the American Federationist has a wide circulation among the organizations and the members of the organizations affiliated to the Federation, but not among the public generally.

10. Answering the tenth paragraph of the petition, this defendant says that he admits the correctness of the quotation there made and does not surrender his rights as a free American citizen and will not assume that the courts will hold any line of conduct illegal which he
pursues within his rights as such citizen; that at the time of
42 such interview, he did not have in mind in any way the words attributed to him as having been used at the Nashville Convention.

11. Answering the eleventh paragraph of said petition, this defendant admits that in the course of a public address he used the language attributed to him. He denies that he has, on numerous occasions, since then, repeated or reaffirmed threats to violate any injunctive process of the Court in this case which should be issued or which has been issued and is now in force, and denies that he has carried out any such imaginary threats by persistently or at all violating such injunction.

12. Answering the twelfth paragraph of the petition, this respondent admits the publication therein set forth, but denies that it has any relevancy to any supposed violation of the injunctive orders of this Court in this case, having been published, as well as the other citations hereinbefore referred to, long before this Court had acted in the case.

13. Answering the thirteenth paragraph of the petition, this respondent admits the publication referred to therein and says that it is an argument and a prophecy, from the argument the petitioner apparently dissenting but apparently accepting the truth of the prophecy, but he denies that it is properly interpreted in any respect as demonstrating that he has violated any injunction.

Further answering said paragraph, he says that it may be true that petitioner's name has been retained and published in the Journal of the International Metal Polishers Union as set forth in said paragraph, but whether that be true or otherwise is immaterial on this hearing, because this respondent had nothing whatever to do with the said publication and no control over it in any degree.

14. Answering the fourteenth paragraph of the petition, this respondent admits that the publication therein referred to was made by him and was sent to a large number of the officers of the various unions affiliated with the American Federation of Labor, and, further answering, says that said communication contained a correct statement of the law and facts as he then did and now understands them, changed only in certain minor particulars by existence of an order which is under appeal, but which was not then in existence.

15. Answering the fifteenth paragraph of the petition, this respondent says that the opinion of the Court and the order based thereon did not take effect upon the filing and approval of the bond simply, but upon the service of a copy thereof upon him or his solicitor or solicitors of record.

Further answering said paragraph, this respondent says that he did not expect the granting of the injunction of Justice Gould in this case and, therefore, did not set in motion any instrumentalities for its nullification. That said order was prohibitive—not mandatory—and did not require respondent to take active steps of any nature whatsoever. The remaining statements of said paragraph are so vague, indefinite and uncertain that this respondent is unable to answer them.

16. Answering the sixteenth paragraph of the petition, this respondent says that even if, as stated, he "rushed" the publication of the January, 1908, issue of the American Federationist, he is not aware that in so doing he violated in any respect any injunction order of this Court or that he could have violated such order by any action had prior to its becoming effective; that the petitioner is, in his statements, assuming to give a retroactive effect to the injunction, something it could not have. This respondent admits that the said January number published the

"We don't patronize" list of the American Federation of Labor containing the name of the petitioner, and that bound volumes of the Federationist, as well as of the proceedings of the Norfolk Convention, were advertised for sale, as stated in said number. He also admits that said proceedings of the Norfolk Convention contained, as stated, the name of petitioner as being on the "unfair" list of the American Federation of Labor. He denies that he thereafter continued to circulate and distribute the said issue, or that he has continuously to the present time circulated and distributed to the public generally copies of the said number of the American Federationist. He admits that copies of the proceedings of the Norfolk Convention and bound copies of the American Federationist for 1907 containing, as stated, the name of petitioner on the "We don't patronize" list of the American Federation of Labor may have been sold from the office of the Federation, but, if such sales took place, they were without his knowledge and he had no part in them. Nevertheless, he alleges that in the event of any such sale having taken place, the purpose thereof was not to injure or affect the petitioner in any way or to violate the terms of the order of this court, but they were made in the usual course of business to libraries or like institutions, attorneys, students of industrial history or social science, desiring a complete file of the American Federationist, and that any such sales, if any such took place, as to which he has no knowledge, were not in willful or any disregard and contempt of the order and decree of this Court.

17. Answering the seventeenth paragraph of the petition, this respondent says that the editorial therein referred to is only to be understood properly by being read in its entirety and he accordingly, for the full contents thereof, refers to the files of this Court. He denies that said editorial constituted in any respect the contempt of Court or that it was in any degree disrespectful of the action of the Court. On the contrary, he says that it contained only such fair and temperate criticism as he had a right to indulge in as a citizen of the conduct of one of the officers of the Government, and that the order and decree herein passed were never properly intended to take away from him his rights as an American citizen, but only intended to prevent the doing of acts styled unlawful had pursuant to a supposed unlawful conspiracy to injure. That there never existed any conspiracy, combination, agreement or understanding which resulted in any degree in bringing about the publication of said editorial, but that the passing of the decree raised a new issue, to wit, whether the Court had acted within or without the limits prescribed by justice; that this issue, which was one only incidentally relating to the pending case but which might have been raised by a case between entirely different parties quite as well, was the only issue discussed by him. From his view-point, he believed the action of the Court to be erroneous, not because the Buck's Stove and Range Company or the American Federation of Labor were the parties involved, but because, as he believes, the

underlying principle of the decision was to be found in an erroneous conception of right; that in said editorial, therefore, the mention of the Buck's Stove and Range Company's name was merely an incident and not the object of the debate.

Further answering said paragraph, this respondent says he admits the publication of the statement referred to as being on pages 114 and 115 of the February, 1908, number of the American Federationist; that he believes the statement of law therein contained to be correct; that the same was published in good faith and for the better understanding of the officials of the American Federation of Labor, who were entitled to know, as definitely as they might, to what extent they were affected by the order of Court passed in the District of Columbia; that he denies the imputation of motives indulged in by the petitioner with relation thereto.

18. Answering the eighteenth paragraph of the petition, this respondent says that, having no personal knowledge or association with the matters and things set forth therein, he neither admits nor denies the same; that, however, the various publications enumerated in said paragraph have no connection with and are in no degree under the control of the American Federation of Labor or of this respondent.

19. Answering the nineteenth paragraph of the petition, this respondent admits the publication referred to therein, but denies the imputation of motives indulged in by petitioner and on the
47 other hand, he says that the statement of facts therein contained was true and was not forbidden by any order of this Court.

20. Answering the twentieth paragraph of the petition, this respondent admits the publication therein set out and denies the imputation of motives indulged in by the petitioner. That this respondent believed and still believes that he had the right to make known with respectful comments to the officers of organizations affiliated to the Federation and their members and others interested, that he would avail himself of his rights under the law to appeal from the decision of this Court.

21. Answering the twenty-first paragraph of the petition, this respondent admits that he delivered an address in the course of which he made the remarks substantially as attributed to him, but cannot admit that the remarks are correctly quoted, and he denies that they were in any wise a violation of any order of this Court.

22. Answering the twenty-second paragraph of the petition, this respondent admits that in the editorial columns of the May, 1908, number of the American Federationist he published the statement attributed to him therein and denies that in so doing he in any wise violated any of the orders or injunction of this Court.

23. Answering the twenty-third paragraph of the petition, this respondent admits that he made the statement and publication referred to therein, denying that in so doing he in any wise violated any of the orders of this Court.

24. Answering the twenty-fourth paragraph of the petition, this

respondent admits that in the July, 1908, number of the
 48 American Federationist he published the statement set forth therein, but denies that it was so published for the purpose of violating or that it did violate in any degree any of the orders of this Court.

25. Answering the twenty-fifth paragraph of the petition, this respondent says that he is advised by counsel that the same does not relate to him and it is unnecessary for him to make any reply thereto.

26. Answering the twenty-sixth paragraph of the petition, this respondent says that he has not in any manner, whether set forth in the petition or otherwise, violated or sought to violate any of the orders or decrees of this Court.

27. Further answering, this respondent says that several issues of fact arise herein as to the doing or not doing of certain acts, as to the motive and intent with which such acts were performed, and as to whether the same were committed, if committed at all, in violation of the order or decree of this Court; that such acts are of a nature properly to be inquired into by a jury, involving, as they do, the question of a criminal or quasi-criminal intent, as to which the unwritten law of this country and England recognizes a jury representing the sense of the body of the community as superior to the opinion of a judge selected because of his special qualifications as a lawyer; therefore, issues should be framed to be passed upon by a jury.

Wherefore, this respondent prays—

That if the judge passing upon the application now pending shall be of the opinion that the charges made in petitioner's petition have
 not been fully sworn away by this answer and the respondent,
 49 therefore, discharged, issues may be framed and a jury impanelled to try the same, otherwise, that the petitioner be dismissed with costs most wrongfully had.

SAMUEL GOMPERS.

DISTRICT OF COLUMBIA, ss:

Samuel Gompers, being first duly affirmed deposes and says that he is the respondent mentioned in the foregoing return to rule by him subscribed; that he has read same and knows the contents thereof; that the matters and things therein stated on his personal knowledge are true and those stated on information and belief he is informed and believes to be true.

SAMUEL GOMPERS.

Subscribed and affirmed to before me this 28th day of August, A. D. 1908.

[SEAL.]

ALBERT C. WELLS,
Notary Public, D. C.

RAILSTON & SIDDON'S,
Solrs for Respondent.
 ALTON B. PARKER,
Of Counsel.

50

Filed September 9, 1908.

In the Supreme Court of the District of Columbia.

Equity. No. 27305.

BUCK'S STOVE AND RANGE COMPANY

vs.

AMERICAN FEDERATION OF LABOR ET AL.

Answer of John Mitchell to the Rule to Show Cause.

The answer of John Mitchell, respondent herein, to the rule to show cause why he should not be adjudged guilty of contempt and the petition upon which said rule is based respectfully shows:

1. He has no knowledge of and therefore cannot admit nor deny the allegations contained in the first paragraph thereof.

2, 3, 4, 5. Answering the second, third, fourth and fifth paragraphs of the petition, this respondent admits the truth of the allegations contained therein, but for greater accuracy refers to the record in this cause.

6. Answering the sixth paragraph of the petition, this respondent says that he denies absolutely that he has since the entry of the said order, as well as that of the final decree, at any time violated the said order and the said final decree alike, or totally disregarded same, and denies that he has acted in any contempt whatever of the authority of the Court or its order or action in the premises. He says that, while the petition charges him with having been guilty of contempt since the filing of the bill and even before the entry of any order, he is at a loss to understand how he could
51 have been guilty of contempt in any case as to which the court had not acted. He denies that said Samuel Gompers had indicated a course of conduct ten years previously which had been pursued in this case by him and this respondent with John Mitchell, or that he has since repeated any suggestion having in view the course to be pursued in this case. That he could not and did not anticipate the bringing of this suit and could not and did not act in any way because of such anticipation.

7, 8, 9, 10, 11, 12, 13. Answering the 7th, 8th, 9th, 10th, 11th, 12th and 13th paragraphs of the petition, this respondent admits as to the publications on personal knowledge and as to the speeches therein referred to on information and belief the substantial correctness of the statements therein contained, but for greater accuracy refers to the publications themselves; but he does not admit the statements of intent associated by the petitioner therewith, and is advised by counsel that it is unnecessary for him to make further or more specific answer to said paragraphs, this respondent not being connected or associated therewith.

14, 15, 16. Answering the 14th, 15th and 16th paragraphs of the petition, this respondent says that as the same has no special

reference to him, he is advised that it is unnecessary for him to make any answer thereto.

17. Answering the seventeenth paragraph of the petition, this respondent says that the editorial and "Urgent Appeal" therein referred to are only to be understood properly by being read in their entirety and he accordingly, for the full contents thereof, refers to the files of this Court. He denies that they constituted in any respect a contempt of Court or that they were in any degree disrespectful of the action of the court. On the contrary, he says that they contained only such fair and temperate criticism as he or any person had a right to indulge in as a citizen of the conduct of one of the officers of the Government, and that the order and decree herein passed were never properly intended to take away from him his rights as an American citizen, but only intended to prevent the doing of acts styled unlawful had pursuant to a supposed unlawful conspiracy to injure. That there never existed any conspiracy, combination, agreement or understanding which resulted in any degree in bringing about the publication of said editorial, but that the passing of the decree raised a new issue, to wit, whether the court had acted within or without the limits prescribed by justice; that this issue, which was one only incidentally relating to the pending case but which might have been raised by a case between entirely different parties quite as well, was the only issue discussed by him. From his viewpoint, he believed the action of the Court to be erroneous, not because the Buck's Stove and Range Company or the American Federation of Labor were the parties involved, but because, as he believes, the underlying principle of the decision was to be found in an erroneous conception of right; that in said editorial, therefore, the mention of the Buck's Stove and Range Company's name was merely an incident and not the object of the debate.

Further answering said paragraph, this respondent says he admits the publication of the statement referred to as being on pages 114 and 115 of the February, 1908, number of the American Federationist; that he believes the statement of law therein contained to be correct; that the same was published in good faith and for the better understanding of the officials of the American Federation of Labor, who were entitled to know, as definitely as they might, to what extent they were affected by the order of Court passed in the District of Columbia; that he denies the imputation of motives indulged in by the petitioner with relation thereto.

18. Answering the eighteenth paragraph of the petition, this respondent says that he admits that he is a vice president and member of the Executive Council of the American Federation of Labor, and that on the 1st day of April, 1908, and for many years prior thereto he was President of the United Mine Workers of America, which was not subordinate to but affiliated with the other unions, national and international, which formed the American Federation of Labor. That he was the Chairman of its Executive Board. That in the issue of the said United Mine Workers'

Journal of January 30, 1908, the editorial entitled "Urgent Appeal" was published, as well as the statement prefacing the injunction order. He admits that on January 25, 1908, he was in the Chair as presiding officer of the 19th Annual Convention of the United Mine Workers of America, held at Indianapolis, Ind. By reference to the minutes of the proceedings had at that time, he finds that the resolution referred to in said paragraph was submitted and carried by the Convention. That having no recollection whatever as to the matter, he can neither admit nor deny that he was presiding at the time said resolution was submitted; that he took no active part whatever in causing the matter of the boycott of the petitioner to be submitted to the Convention, and until the matter was brought to his attention by the filing of the petition herein, did not know that the subject had been acted upon by the Convention referred to. That he had nothing to do with the publication of the extracts referred to from the United Mine Workers' Journal of January 9, 1908, and his first knowledge with relation thereto was obtained after said publication was had; that he did not authorize or sanction the publication in any way. That it is possible that the publication referred to was followed by other newspapers throughout the country, but that this respondent neither directly nor by association with others had connection with any of the publications named in the
 54 petition.

19, 20, 21, 22, 23, 24, 25. Answering the nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth and twenty-fifth paragraphs of the petition, this respondent says that as the various speeches and publications therein referred to were made by others than himself, and as he took no part in the making of any of them, he is advised and believes that any further answer with relation thereto by him is unnecessary.

26. Answering the twenty-sixth paragraph of the petition, this respondent says that he has not in any manner, whether set forth in the petition or otherwise, violated or sought to violate any of the orders or decrees of this Court.

27. Further answering, this respondent says that several issues of fact arise herein as to the doing or not doing of certain acts, as to the motive and intent with which such acts were performed, and as to whether the same were committed, if committed at all, in violation of the order or decree of this court; that such acts are of a nature properly to be inquired into by a jury, involving, as they do, the question of a criminal or quasi-criminal intent, as to which the unwritten law of this country and England recognizes a jury representing the sense of the body of the community as superior to the opinion of a judge selected because of his special qualifications as a lawyer; therefore, issues should be framed to be passed upon by a jury.

Wherefore, this respondent prays—

That if the judge passing upon the application now pending shall be of the opinion that the charges made in petitioner's petition have not been fully sworn away by this answer and the respondent, there-

fore, discharged, issues may be framed and a jury impanelled to try the same, otherwise, that the petitioner be dismissed with costs most wrongfully had.

JOHN MITCHELL.

STATE OF ILLINOIS,
Bureau County, ss:

John Mitchell, being first duly sworn, on oath deposes and says that he is the respondent mentioned in the foregoing return to rule by him subscribed; that he has read same and knows the contents thereof; that the matters and things therein stated on his personal knowledge are true and those stated on information and belief he is informed and believes to be true.

JOHN MITCHELL.

Subscribed and sworn to before me this 5th day of September, A. D. 1908.

[SEAL.]

WM. HAWTHORNE,
Notary Public, Spring Valley, Bureau Co., Ills.

RALSTON & SIDDON'S,
Solrs for Respondent.
ALTON B. PARKER,
Of Counsel.

56

Filed September 9, 1908.

In the Supreme Court of the District of Columbia,

Equity. No. 27305.

BUCK'S STOVE AND RANGE COMPANY
vs.
AMERICAN FEDERATION OF LABOR ET AL.

Answer of Frank Morrison to the Rule to Show Cause.

The answer of Frank Morrison, respondent herein, to the rule to show cause why he should not be adjudged guilty of contempt and the petition upon which said rule is based respectfully shows:—

1. He has no knowledge of and therefore cannot admit nor deny the allegations contained in the first paragraph thereof.

2, 3, 4, 5. Answering the second, third, fourth and fifth paragraphs of the petition, this respondent admits the truth of the allegations contained therein, but for greater accuracy refers to the record in this cause.

6. Answering the sixth paragraph of the petition, this respondent says that he denies absolutely that he has since the entry of the said order, as well as that of the final decree, at any time violated the said order and the said final decree alike, or totally disregarded same and denies that he has acted in any contempt whatever of the authority of the Court or its order or action in the premises. He says that

while the petition charges him with having been guilty of contempt since the filing of the bill and even before the entry of any order,

57 he is at a loss to understand how he could have been guilty of contempt in any case as to which the court had not acted.

He denies that said Samuel Gompers had indicated a course of conduct ten years previously which had been pursued in this case by him and this respondent with John Mitchell, or that he has since repeated any suggestion having in view the course to be pursued in this case. That he could not and did not anticipate the bringing of this suit and could not and did not act in any way because of such anticipation.

7, 8, 9, 10, 11, 12, 13. Answering the 7th, 8th, 9th, 10th, 11th, 12th and 13th paragraphs of the petition, this respondent admits as to the publications on personal knowledge and as to the speeches therein referred to on information and belief the substantial correctness of the statements therein contained, but for greater accuracy refers to the publications themselves; but he does not admit the statements of intent associated by the petitioner therewith, and is advised by counsel that it is unnecessary for him to make further or more specific answer to said paragraphs, this respondent not being connected or associated therewith.

14. Answering the 14th paragraph of the petition, this respondent admits that the publication therein referred to was made as stated and was sent to a large number of the officers of the various unions affiliated with the American Federation of Labor. Further answering, he says that said communication contained a correct statement of the law and facts as he then did and now does understand them, changed only in certain minor parts by reason of the existence of an order and decree now under appeal, but which were not then in existence.

15. Answering the 15th paragraph of the petition, this respondent says that the opinion of the Court and the order based thereon
58 did not take effect upon the filing and approval of the bond simply, but upon the service of a copy thereof upon him or his solicitor or solicitors of record.

Further answering said paragraph, this respondent says that he did not expect the granting of the injunction of Justice Gould in this case and, therefore, did not set in motion any instrumentalities for its nullification. That said order was prohibitive—not mandatory—and did not require respondent to take active steps of any nature whatsoever. The remaining statements of said paragraph are so vague, indefinite and uncertain that this respondent is unable to answer them.

16. Answering the 16th paragraph of the petition so far as the same relates to this respondent, he says that he admits that the January number of the American Federationist published the "we don't patronize" list of the American Federation of Labor containing the name of the petitioner, and that bound copies of the Federationist as well as the proceedings of the Norfolk Convention were advertised for sale, as stated in said number. He also admits that said proceedings of the Norfolk Convention contained, as stated, the name of

petitioner as being on the "unfair" list of the American Federation of Labor. He denies that he thereafter continued to circulate and distribute the said issue, or that he has continuously to the present time circulated and distributed to the public generally copies of the said number of the American Federationist. He admits that copies of the proceedings of the Norfolk Convention and bound copies of the American Federationist for 1907, containing as stated, the name of petitioner on the "we don't patronize" list of the American Federation of Labor may have been sold from the office of the Federation. Nevertheless he alleges that in the event of any such sale having taken place, the purpose thereof was not to injure or affect the petitioner in any way or to violate the terms of the order of this court, but they were made in the usual course of business to associations, libraries or like institutions, attorneys, students of industrial history or social science, desiring complete files, and that any such sales, if any such took place, as to which he has no knowledge, were not in willful or any disregard and contempt of the order and decree of this Court.

17. Answering the seventeenth paragraph of the petition, this respondent says that the editorial and "Urgent Appeal" therein referred to are only to be understood properly by being read in their entirety and he accordingly, for the full contents thereof, refers to the files of this Court. He denies that they constituted in any respect a contempt of Court or that they were in any degree disrespectful of the action of the court. On the contrary, he says that they contained only such fair and temperate criticism as he or any person had a right to indulge in as a citizen of the conduct of one of the officers of the Government, and that the order and decree herein passed were never properly intended to take away from him his rights as an American citizen, but only intended to prevent the doing of acts styled unlawful and pursuant to a supposed unlawful conspiracy to injure. That there never existed any conspiracy, combination, agreement or understanding which resulted in any degree in bringing about the publication of said editorial, but that the passing of the decree raised a new issue, to wit, whether the Court had acted within or without the limits prescribed by justice; that this issue, which was one only incidentally relating to the pending case but which might have been raised by a case between entirely different parties quite as well, was the only issue discussed by him. From his viewpoint, he believed the action of the Court to be erroneous, not because the Buck's Stove and Range Company or the American Federation of Labor were the parties involved, but because, as he believes, the underlying principle of the decision was to be found in an erroneous conception of right; that in said editorial, therefore, the mention of the Buck's Stove and Range Company's name was merely an incident and not the object of the debate.

Further answering said paragraph, this respondent says he admits the publication of the statement referred to as being on pages 114 and 115 of the February, 1908, number of the American Federationist; that he believes the statement of law therein contained to be

correct; that the same was published in good faith and for the better understanding of the officials of the American Federation of Labor, who were entitled to know, as definitely as they might, to what extent they were affected by the order of Court passed in the District of Columbia; that he denies the imputation of motives indulged in by the petitioner with relation thereto.

18. Answering the eighteenth paragraph of the petition, this respondent says that, having no personal knowledge or association with the matters and things set forth therein, he neither admits nor denies the same; that, however, the various publications enumerated in said paragraph have no connection with and are in no degree under the control of the American Federation of Labor or of this respondent.

19. Answering the 19th paragraph of the petition, this respondent says that he admits that the publication therein referred to was made, but says that as no charge is made against him in connection therewith, he is advised that further answer from him is unnecessary.

20. Answering the twentieth paragraph of the petition, this respondent admits the publication therein set out and denies the imputation of motives indulged in by the petitioner.

That this respondent believed and still believes that he had the right to make known with respectful comments to the officers of organizations affiliated to the Federation and its members and others interested, that he would avail himself of his rights under the law in appeal from the decision of this Court.

21, 22, 23, 24. Answering the twenty-first, twenty-second, twenty-third and twenty-fourth paragraphs of the petition, this respondent says that he admits the publications therein referred to, but for greater correctness refers to the records of this Court containing the same; that he denies that they were made in violation of any order of this Court.

25. Answering the twenty-fifth paragraph of the petition, this respondent says that he admits that the copies of the American Federationist, referred to in the petition, have been circulated and distributed in large numbers by this respondent, but he denies that such circulation and distribution has been in disregard or in violation of the order and decree of the Court in the premises. He admits that they have been sold to the public and read throughout the country, and that he was fully aware of the contents of the same. That he is not authorized to answer for his co-respondent Samuel Gompers as to the motives which actuated him, although he believes that, like his own, they were innocent of any desired trespass upon the orders of this Court, and he denies that they did so trespass, and denies that he has in any wise in their publication violated the orders or decrees of this court.

26. Answering the twenty-sixth paragraph of the petition, this respondent says that he has not in any manner, whether set forth in the petition or otherwise, violated or sought to violate any of the orders or decrees of this Court.

27. Further answering, this respondent says that several issues of fact arise herein as to the doing or not doing of cer-

tain acts, as to the motive and intent with which such acts were performed, and as to whether the same were committed, if committed at all, in violation of the order or decree of this Court; that such acts are of a nature properly to be inquired into by a jury, involving, as they do, the question of a criminal or quasi-criminal intent, as to which the unwritten law of this country and England recognizes a jury representing the sense of the body of the community as superior to the opinion of a judge selected because of his special qualifications as a lawyer; therefore, issues should be framed to be passed upon by a jury.

Wherefore, this respondent prays—

That if the judge passing upon the application now pending shall be of the opinion that the charges made in petitioner's petition have not been fully sworn away by this answer and the respondent, therefore, discharged, issues may be framed and a jury impanelled to try the same, otherwise, that the petitioner be dismissed with costs most wrongfully had.

FRANK MORRISON,
RALSTON & SIDDONS,
Sol'rs for Respondent.

ALTON B. PARKER,
Of Counsel.

DISTRICT OF COLUMBIA, ss:

Frank Morrison, being first duly sworn, on oath deposes and says that he is the respondent mentioned in the foregoing return to rule by him subscribed; that he has read same and knows the contents thereof; that the matters and things therein stated on his personal knowledge are true and those stated on information and belief he is informed and believes to be true.

FRANK MORRISON.

63 Subscribed and sworn to before me this 4th day of September, A. D. 1908.

HARVEY T. WINFIELD, [SEAL.]
Notary Public, D. C.

64 *Depositions on Behalf of Complainant.*

Filed October 19, 1908.

In the Supreme Court of the District of Columbia.

No. 27305. Equity.

THE BUCK STOVE AND RANGE CO.

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

I, Truman A. Snell, a Notary Public, in and for the County of Macoupin, State of Illinois, having my Office in the Coerver Build-

ing, in the City of Staunton, in said County and State, do hereby certify that, pursuant to the notice to that end hereto annexed, I proceeded on the 15th day of October, A. D. 1908, at the hour and place in said notice named, and in the presence of the Counsel for the respective parties, Daniel Davenport, Esq., appearing for the Complainant, and Jackson H. Ralston, Esq., for the Defendant; to take the following depositions of the Witnesses: Harvey Stroud, Frank Schaeffer, Edward Wieck and John E. Mueller, produced on behalf of the Complainant, each of said Witnesses being by me first duly sworn according to law, and thereupon being orally examined, upon the interrogatories propounded to them by the Counsel for the said parties respectively, as set forth in said Depositions, and each of the said Witnesses did thereupon depose and say as therein set forth, the Counsel for the parties having first consented that the testimony so taken before me, should be taken down stenographically and reduced to typewriting and the said examination was completed on said day.

I further certify that then and there, at the time and place named, the testimony of each of said Witnesses was reduced to writing, as per the agreement of Counsel: that each of the said witnesses read over the testimony given by him, respectively, signed in my presence, and that I have annexed to the said testimony the notice given for the taking of the same.

And I further certify that my Fees for taking said testimony are (\$——) which have been paid by the Complainant: that I am not of Counsel for either party to the cause, or interested in the event of the suit: that I am now about to close the same under my Official

Seal as Notary Public, and being unable to return the same in person to the Supreme Court of the District of Columbia, I shall now place the said Depositions in a Sealed Envelope, directed "To the Clerk of the Supreme Court, of the District of Columbia, Washington, D. C."; and deposit the same with the Postage prepaid, in the United States Mails.

Witness my hand and Seal this — day of October, A. D. 1908.

TRUMAN H. SNELL,

*Notary Public for the County of Macoupin
and State of Illinois.*

My commission expires March 15, 1910.

It is stipulated by and between the counsel for the plaintiff and counsel for the defendants, that either side may at the hearing rely upon any objection which they may see fit to adduce relative to the competency or materiality of the testimony, or particular questions, as if such objections had been made specifically to each question as asked.

HARVEY ROBERT STROUD, a witness of lawful age, being produced, sworn and examined, testified as follows on the part of the plaintiff:

Direct examination.

By Mr. DAVENPORT:

Q. What is your full name? A. Harvey Robert Stroud.

Q. And what is your age? A. My age is twenty-nine years and a few months.

Q. And where do you reside? A. Staunton, Illinois.

Q. Are you a member of Local Number 755 of United Mine Workers of America? A. I am.

Q. Where is that local situated? A. In Staunton.

Q. Were you a delegate from that local to the Nineteenth Annual Convention of the United Mine Workers of America, held at Indianapolis, Indiana from January 21st to February 3rd inclusive, 1908? A. Yes sir.

Q. And who was your fellow delegate? A. Mr. Schaeffer.

Q. Frank Schaeffer? A. Frank Schaeffer.

Q. As such delegate, did you attend the convention? A. 67 I did.

Q. Did you introduce in that convention a resolution, called Resolution No. 73, which reads as follows:

"Resolution No. 73.

Whereas, The Buck Stove and Range Company, of St. Louis, Mo., have taken legal steps to prevent organized labor in general, and the officers and Executive Committee of the A. F. of L., in particular, from advertising the above named firm as being on the "unfair," or "we don't patronize list," and

Whereas, By the issue of such an injunction or restraining order as prayed for by above named firm, organized labor will be deprived of one of its most effective weapons, and

Whereas, J. W. Van Cleave, the president of above named firm, also president of the National Manufacturers' Association, stated that in a few years' time he would disrupt organized labor; therefore, be it

Resolved, That the U. M. W. of A. in Nineteenth Annual Convention assembled, place the Buck stoves and ranges on the unfair list, and any member of the U. M. W. of A. purchasing a stove of above make be fined \$5.00, and failing to pay same be expelled from the organization.

HARVEY STROUD.
FRANK SCHAEFFER.

Indorsed by Local Union 755, Staunton, Ill."

A. I did sir.

Q. Was the name Harvey Stroud attached to it by yourself? A. It was.

Q. Where was that resolution drawn? A. It was drawn here, in Staunton.

Q. And by whom? A. By myself.

Q. And when? A. Well, just preceding the Nineteenth Annual Convention.

Q. Was it during the month of January, 1908. A. It was
68 sir.

Q. It bears the indorsement indorsed by Local Union 755, Staunton, Illinois. Had it that indorsement on it when it was presented to the convention? A. It had.

Q. And was such action taken by the Local? A. It was.

Q. And when? A. Well, I couldn't state the date. It was the last meeting of the Local before the delegates went to attend the convention.

Q. And when do you hold those meetings? A. On the first and third Saturdays *fo* each month.

Q. And this action was taken by the Local Union 755 at the last meeting preceding the assembling of the convention? A. It was.

Q. And can you now state what the date of the month? A. Well, to the best of my knowledge, it was the third Saturday in January.

Q. It appears to be the 18th of January? A. It appears to be on your statement.

Q. To whom did you deliver this resolution? A. I am not positive if I went to the office of the United Mine Workers in the Indiana State Life Building and presented that resolution, or whether I presented that resolution on the floor of the convention.

Q. To clarify the matter a little, is it not true that the International Secretary-Treasurer of the United Mine Workers is the chairman of the committee on Distribution. A. That is true.

Q. And was Mr. W. B. Wilson at that time the International Secretary-Treasurer of the United Mine Workers of America? A. He was.

Q. And as such was he then the chairman of the Committee on Distribution. A. He was.

69 Q. Can you recollect the date when that resolution was by the Committee on Distribution referred to the Committee on Resolutions? A. No sir, I do not know that.

Q. I have here the official report of the proceedings of the Nineteenth Annual Convention of the United Mine Workers of America, held in the city of Indianapolis, Indiana, January 21st to February 3rd inclusive, 1908, and it appears by that report that on the second day at the morning session President Mitchell in the chair, announced the appointment of the following committees: Committee to Assign Resolutions—W. B. Wilson, District 2; J. S. McCracken, District 19; John R. Galvin, District 18, and that he appointed on the Committee on Resolutions—W. R. Fairley, District 20; W. D. Ryan, District 12; D. H. Sullivan, District 6; James Purcell, District 2; James S. Clark, District 5; John McLennan, District 15; Robert Gilmour, District 14; Edward Cunningham, District 21; Andrew Matvey, District 7; Charles Fox, District 11; Ben Morris, District 17. And following in the proceedings of that day appears

resolutions and the reference to the different committees and the resolution No. 73, which you have identified, appears as referred to committee on resolutions by committee on distribution. Now, are you able to state from this whether or not you handed the committee this resolution or to Mr. Wilson on or before that date, being Wednesday, January 22nd? A. The resolution was not handed in until after the committee on resolutions had been appointed.

Q. Well, was it handed in the day they were appointed? A. I am not positive as to the day, whether in the afternoon or the following morning.

Q. Were not the proceedings of the convention day by day reported and printed and distributed among the delegates. A. They were.

Q. And did you notice whether or not this resolution was so printed and distributed after your introduction of it. A. It was.

70 Q. Do you know any of these gentlemen who were members on the committee on resolutions? A. Not personally, but I know of them and have heard them speak on different occasions.

Q. Do you know W. R. Fairley? A. Not personally.

Q. You knew he was in attendance at the convention. A. I did.

Q. And was he a member of the committee on resolutions? A. He was.

Q. And do you know W. D. Ryan? A. I do.

Q. Is he at present the International Secretary-Treasurer of the United Mine Workers of America? A. Well, he was the last report I heard.

Q. He was elected at that convention was he? A. Sir?

Q. He was elected? A. No, he was——

Q. Well, then he was declared elected? A. Certainly.

Q. The officers of the United Mine Workers of America are chosen by referendum vote? A. Yes sir.

Q. Which are canvassed and reported to the convention? A. That is right.

Q. And at that convention he was declared to be elected? A. He was.

Q. To the office of Secretary-Treasurer? A. Yes sir.

Q. Do you know D. H. Sullivan? A. I do not.

Q. James Purcell? A. I do not.

71 Q. James S. Clark? A. I am not acquainted with Mr. Clark, but I know him at sight, and I have heard him speak on different occasions.

Q. John McLennan? A. I am not acquainted with him.

Q. Robert Gilmour? A. I do not know the man.

Q. In any way? A. In any way, no sir.

Q. Edward Cunningham? A. I do not know the man.

Q. Andrew Matthey? A. I only know Mr. Matthey by appearance, I never met the gentleman.

Q. Charles Fox? A. I do not know him.

Q. Ben Morris? A. I do not know the man.

Q. After thus introducing this resolution, which was referred to the committee on resolutions, did you appear before the committee on resolutions? A. I did not.

Q. Or take any part in it? A. I did not.

Q. Do you know of your own knowledge whether Mr. Schaeffer did? A. I do not know of my own knowledge that he took any part in the committee, but as I roomed with Mr. Schaeffer, I believe it is impossible that he should have appeared before the committee, without my knowledge.

Q. Were you present in the convention when the resolution was reported by the committee on resolutions? A. I was.

72 Q. Are you able without the record to identify the date?
A. I am not.

Q. It appears in the official report of the proceedings that on the fifth day, morning session, convention was called to order Saturday, January 25th, President Mitchell in the chair, and that the report of the committee on resolutions was then received. Ryan, W. D. Secretary of the Committee on Resolutions, reported as follows:

"Resolution No. 73.

Whereas, the Buck Stove and Range Company, of St. Louis, Mo., have taken legal steps to prevent organized labor in general, and the officers and Executive Committee of the A. F. of L., in particular, from advertising the above named firm as being on the "unfair," or "we don't patronize list," and

Whereas, By the issue of such an injunction or restraining order as prayed for by above named firm, organized labor will be deprived of one of its most effective weapons, and

Whereas, J. W. Van Cleave, the president of above named firm, also president of the National Manufacturers' Association, stated that in a few years' time he would disrupt organized labor; therefore, be it

Resolved, That the U. M. W. of A., in Nineteenth Annual Convention assembled, place the Buck Stoves and ranges on the unfair list, and any member of the U. M. W. of A. purchasing a stove of above make be fined \$5.00, and failing to pay same be expelled from the organization.

HARVEY STROUD.
FRANK SCHAEFFER.

Indorsed by Local Union 755, Staunton, Ill."

The committee recommended concurrence in the resolution." Do you remember the report? A. I do.

Q. And that Mr. Ryan reported it? A. That statement is correct.

73 Q. Did you hear the resolution read? A. I did.

Q. Do you remember who was in the chair? A. I do.

Q. Who? A. Mr. Mitchell.

Q. And do you remember that Mr. John H. Walker moved that the recommendation of the committee be concurred in? A. I remember that.

Q. Do you remember who seconded the resolution. A. No, I do not.

Q. Do you remember if it was seconded? A. It was.

Q. Do you know whether you seconded it? A. I did not.

Q. Do you remember whether Mr. Schaeffer seconded it? A. He did not.

Q. Now, will you state what action was taken by the convention as you remember it? A. As I remember, the resolution was read and Mr. John Walker moved that we concur in the recommendation of the committee on resolutions. The motion was put without debate and was declared to be adopted unanimously.

Q. Now, how long have you been connected with Local 755 United Mine Workers of America, located in Staunton, Illinois. A. More than eight years.

Q. Have you held any official position in it? A. Why, yes, I have held several official positions.

Q. Did you hold any position during the year 1907? A. I did.

Q. What was it? —. The position of Financial Secretary.

74 Q. As such was it your duty to attend the meetings? A. It was.

Q. And did you attend them? A. I did.

Q. Did you attend a meeting held on the 28th day of September, 1907? A. I am sure I couldn't tell you.

Q. You know Alonzo Miller of this town? A. I do.

Q. Did you ever wait upon Mr. Miller with reference to the matter of his buying ranges or heaters from the Buck Stove Company? A. I did not.

Q. Do you know who the committee was that waited on him? A. I do not remember.

Q. You do not remember? A. I do not.

Q. But do you know that there was a committee appointed to wait on him. A. I do not know that.

Q. There was such a committee appointed. Who was the officer of that local whose business it was to wait upon merchants in town with reference to dealings with goods on the unfair list?

Mr. RALSTON: This question is especially objected to as having no relation to the contempt proceedings now before the court.

A. By that question, I can't answer it, because we have no such local and—

Q. No. 755? A. Well, as I understand it that local is not referred to in this question.

Q. Who was the officer of Local No. 755, United Mine Workers of America, Staunton, Illinois, whose business it was to wait upon customers with reference to the matter of dealings with goods that are on the unfair list? A. Well, we haven't any officer whose
75 duty takes in that kind of business.

Q. Well, now have you any knowledge at all of your own of any such committee waiting upon Mr. Miller from Local 755? A. I do not know.

Q. In company with the representatives of other labor unions?
A. I do not know.

Q. Do you know whether a committee representing the miners, clerks and labor unions of Staunton waited upon Mr. Miller. A. That may be possible, but I do not know of my own knowledge.

Q. Well, now do you know of the passage of a resolution by Local No. 755 fining the members if they bought Buck stoves and ranges?

A. Let me see, I am not positive as to whether such action was taken or not.

Q. What is your impression about it. A. My impression might be adverse to your interest or to your company.

Q. That doesn't make any difference I asked you if you have any impression about it? A. I might have.

Q. Well, what is it? A. I refuse to answer that.

Q. Why? A. Because I consider it a right of my own to hold impressions that I might have.

Q. And that is your ground on declining to answer that question, whether you have any impression on that subject? A. I don't consider that would be material evidence.

Q. It is not for you, or counsel or for any other person to pass on the materiality of the questions, that is for the court. Do you still decline to answer? A. I do.

Q. Were you present at any meeting of the Local No. 755 referred to when a resolution of that kind was adopted. A. I do not remember.

Q. Who was the Secretary of the local during 1907. A. Mr. John E. Mueller.

Q. Do you know Mr. John H. Walker? A. I am not personally acquainted with the man. I know him by sight and I have heard him speak on quite a few different occasions.

Q. But you have no personal acquaintance with him? A. No, I have not.

Q. Mr. Stroud, Does your local receive a copy of the proceedings of the annual conventions? A. They do.

Q. From the International Secretary-Treasurer? A. They do.

Q. After every convention? A. Yes sir.

Q. Do you know whether they received one of the Nineteenth Annual Convention? A. They did.

Q. Do you know whether they received a circular letter from the International Secretary, calling attention to the fact that this resolution had been adopted, Resolution No. 73, by the convention? A. I do not.

Q. Have no knowledge on the subject? A. About the circular letter?

Q. Yes sir? A. I have not.

Cross-examination.

By Mr. RALSTON:

Q. Mr. Stroud, can you say at the time of the submission of the resolution that you introduced to the Indianapolis Convention that

Mr. John Mitchell was giving attention to its contents, or knew what they were, or whether his attention was distracted by other things? A. Why, I am of the impression that Mr. Mitchell gave the closest attention of all the details of the convention so far as came within his scope.

Q. Do you know that he listened to this particular resolution? A. No more so than to any other resolution that was introduced.

Q. Well, his special attention was not invited to it in any special way? A. Not that I could say.

Q. And as presiding officer of the convention *his* is frequently appealed to, is he not by persons who come to the chair to ask questions or corrections? A. He is.

Q. And whether that happened at that time or not, you are not prepared to state? A. I am not prepared to state.

Q. Is it that the resolution could have been submitted by him without his being acquainted with the gist of the resolution? A. Such is possible. I will state that the chairman of the convention is frequently in conversation with the secretary, or with the stenographer or some of the clerks of the International Headquarters, and that when reports of committees are being received, that he may for the time being have his attention diverted from the report of the committee. The committee having finished their report—these reports are usually in writing—motion and seconded is usually made to concur or not concur in the report of the committee, and then Mr. Mitchell, as chairman of the convention, puts the question and declares the result after the vote is taken.

Redirect examination.

By Mr. DAVENPORT:

Q. Mr. Stroud, where did you sit in the convention when this took place? A. In the balcony, near the stage.

78 Q. Where you could hear and see? A. Where I could hear and see, yes sir.

Q. And when Mr. Ryan read this you heard it read? A. I did.

Q. And is it your belief that Mr. Mitchell heard it read? A. It may be possible that he did and that he did not. I will state that every delegate in the convention has a copy of the proceedings and is usually read then at the same time that the committee makes their report. When the committee came to Resolution No. 73 and began reading that, I had been reading Resolution No. 73 in the proceedings to see if it had been altered or amended by the committee that frequently makes changes and in some instances reconstruct the resolutions.

Q. Do you mean to state that the resolutions had been printed previous to the action by the convention thereon? A. Yes sir.

Q. Then this resolution must have been printed? A. It certainly was.

Q. And was before all the delegates? A. Certainly.

Q. At the time the convention acted on it? A. Yes sir.

Q. And these had been placed upon the desks of all the members?
A. Yes sir.

Q. Now, Mr. Stroud, you remember distinctly Mr. Ryan read it?
A. Yes sir.

Q. You were watching for it? A. Yes sir.

Q. And you heard him read it? A. Yes sir.

Q. And he has a good clear voice, has he not? A. Yes sir.

79 Q. And he was on the platform and close by Mr. Mitchell?

A. Well, there might have been a space of perhaps ten or twelve feet intervening.

Q. Now, have you any recollection at all that Mr. Mitchell was not giving that close attention that he usually did? A. I have no recollection.

Q. Well, you believe that he was giving close attention to it?
A. Well, I couldn't state that, because I have previously stated that his attention is very frequently diverted.

Q. How many members are there in Local No. 755? A. Well, the membership varies from 950 to 985.

HARVEY R. STROUD.

Subscribed and sworn to before me this 15th day of October,
A. D. 1908.

TRUMAN A. SNELL,
*Notary Public for the County of
Macoupin and State of Illinois.*

My commission expires March 15, 1910.

80 FRANK W. SCHAEFFER, a witness of lawful age, being produced, sworn and examined, testified as follows, on the part of the plaintiff:

Direct examination.

By Mr. DAVENPORT:

Q. What is your full name? A. Frank W. Schaeffer.

Q. And where do you reside? A. Staunton.

Q. Illinois? A. Yes sir.

Q. And what is your age? A. Thirty-two years this coming next month.

Q. And what is your occupation? A. Miner.

Q. And are you a member of Local No. 755. A. Yes sir.

Q. United Mine Workers of America, Staunton, Illinois? A. Yes sir.

Q. Were you one of the delegates from that local to the Nineteenth Annual Convention of the United Mine Workers of America, held at Indianapolis, Indiana from January 21st to February 3rd inclusive, 1908? A. Yes sir.

Q. I will show you resolution No. 73 introduced in that convention and referred to in the testimony of Mr. Stroud and ask you whether or not you recognize that resolution? A. I recognize it.

Q. And did you sign it? A. I signed it.

Q. For the purpose of having it introduced in the convention?
A. Yes sir.

Q. I will now read the resolution:

Resolution No. 73.

Whereas, The Bucks Stove and Range Company, of St.
81 Louis, Mo., have taken legal steps to prevent organized labor
in general, and the officers and executive committee of the
A. F. of L., in particular, from advertising the above named firm
as being on the "unfair" or "we don't patronize list," and

Whereas, By the issue of such an injunction or restraining order
as prayed for by above named firm, organized labor will be deprived
of one of its most effective weapons, and,

Whereas, J. W. Van Cleave, the president of above named firm
also president of the National Manufacturers' Association, stated
that in a few years' time he would disrupt organized labor; there-
fore, be it

Resolved, That the U. M. W. of A., in Nineteenth Annual Con-
vention assembled, place the Bucks stoves and ranges on the unfair
list, and any member of the U. M. W. of A. purchasing a stove of
above make be fined \$5.00, and failing to pay same be expelled from
the organization.

HARVEY STROUD.
FRANK SCHAEFFER.

Indorsed by Local Union 755, Staunton, Illinois."

Do you know that that resolution was introduced? A. To the
best of my knowledge it was.

Q. And referred to the committee on resolutions? A. Yes sir.

Q. Did you take any part in regard to it before the committee?
A. Yes sir, Mr. Stroud there drew up the resolution and asked me
to sign it, and I did, and I suppose he handed it to the resolution
committee.

Q. Did you appear before the committee? A. I did not.

Q. In advocacy of it? A. I did not.

Q. Were you present in the convention when the committee re-
ported on it? A. To the best of my knowledge, I was.

82 Q. Do you remember Mr. Ryan reading the report? A. Yes.
I think so.

Q. And did you hear his report of that resolution? A. Did I
hear his report? Yes sir.

Q. Who was in the chair at that time? A. I am not positive who
was.

Q. What is your impression about it at that time? A. I am not
positive who was.

Q. Now, do you know whether or not Mr. Walker moved its
adoption? A. I think so. To the best of my knowledge he did.

Q. And did you hear it put to the convention? A. I did.

Q. By the presiding officer? A. By the presiding officer.

Q. And declared carried? A. Yes sir.

Q. Was the report of the previous day's convention proceedings printed? A. It was.

Q. Before the resolution was read? A. It was.

Q. And distributed among the members? A. It was.

Q. And did you follow the report to see whether or not the resolution was as it was introduced? A. I did.

Q. And you saw that it was the same? A. It was the same.

Q. Do you hold any office in the Local No. 755? A. I do not at the present time.

Q. Did you during the year 1907? A. I did.

Q. What was the office? A. One of the Executive Board.

83 Q. Were you present at any meeting of that local when a resolution was passed fining any member of it if he bought Buck Stoves and ranges? A. I am not certain whether I was or not.

Q. Do you know of such resolution being passed. A. I do not.

Cross-examination.

By Mr. RALSTON:

Q. Do you know of your own knowledge whether Mr. Mitchell heard that resolution read? A. I could not say, because at various times he was interrupted and sometimes he left the stage and appointed other officers to preside in his stead.

FRANK W. SCHAEFFER.

Subscribed and sworn to before me, this 15th day of October, A. D. 1908.

TRUMAN A. SNELL,
Notary Public for the County of
Macoupin and State of Illinois.

84 EDWARD A. WIECK, a witness of lawful age, being produced, sworn and examined, testified as follows on the part of the plaintiff:

Direct examination.

By Mr. DAVENPORT:

Q. What is your full name? A. Edward A. Wieck.

Q. And what is your age? A. Twenty-four years.

Q. And where do you reside? A. Staunton.

Q. Illinois? A. Yes sir.

Q. And what is your occupation? A. Mine worker.

Q. You are a member of Local 755 United Mine Workers of America, Staunton, Illinois. A. Yes sir.

Q. And do you hold any office at the present time? A. I do.

Q. What is it. A. Recording Secretary.

Q. How long have you held that office? A. Since early in September.

Q. Of this year? A. Yes sir.

Q. Have you the custody of the records of that local? A. I have.

Q. Mr. Wieck, do you know whether or not this resolution No. 73, which was introduced in the United Mine Workers' Nineteenth Annual Convention was indorsed by Local 755, at Staunton, Illinois, before it was taken to the convention by Mr. Stroud? A. I do not know about the exact wording, but it was the resolution of that character indorsed by Local 755.

Q. Do you know of your own knowledge whether or not there was a resolution passed by the local fining any of *his* members if they bought any Buck stove- and ranges. A. Nothing further than the resolution already stated.

Q. As the Secretary of Local No. 755, have you the custody of the official reports of the proceedings of the Nineteenth Annual Convention of the United Mine Workers of America, held at Indianapolis, Indiana, from January 21st to February 3rd inclusive, 1908? A. I think there is a copy of that proceedings of that convention in the miners' office.

Q. Do you know whether or not they are sent out to all of the locals by the International Secretary. A. I believe they are.

Q. Do you know whether there is any notice posted up in your meeting room of the action of the convention. A. Nothing that I know of.

Q. Do you know anything about a committee being appointed to wait upon Mr. Alonzo Miller with reference to buying Buck stoves and ranges? A. No sir.

Cross-examination was waived.

EDWARD A. WIECK.

Subscribed and sworn to before me, this 15th day of October, A. D. 1908.

TRUMAN A. SNELL,
*Notary Public for the County of
Macoupin and State of Illinois.*

86 JOHN EDWARD MUELLER, a witness of lawful age, being produced, sworn and examined, testified as follows on the part of the plaintiff:

Direct examination.

By Mr. DAVENPORT:

Q. What is your full name? A. John Edward Mueller.

Q. And what is your age? A. Forty-two years in December.

Q. And where do you reside? A. Staunton, Illinois.

Q. Are you a member of Local Union 755 United Mine Workers of America, Staunton, Illinois. A. Yes sir.

Q. And have you been the secretary of that body? A. Yes sir.

Q. And for how long a time? A. About five years.

Q. When did you cease to be such? A. The first Saturday in September.

Q. 1908? A. Yes sir.

Q. Mr. Mueller, do you know whether or not any action was taken while you were Secretary by Local Union 755, Staunton, Illinois, on

the resolution No. 73, relative to placing the Buck stoves and ranges on the unfair list, which was drawn by Mr. Straud and taken by him to the Nineteenth Annual Convention of the United Mine Workers in 1908. A. I know there was one drawn.

Q. Do you know whether such action was taken indorsing it? A. I think there was.

Q. As such secretary did you receive from the International Secretary Treasurer the official proceedings of the Nineteenth Annual Convention in January, 1908 of the United Mine Workers of America? A. I don't think I received it in January.

Q. You received one? A. They came later on, I don't know how long afterwards.

Q. But you did receive them? A. Yes sir.

Q. And do you know whether or not a copy of its proceedings was sent to each local? A. I suppose they were.

Q. Now, during the year 1907 have you any recollection of any resolution having been adopted fining the members of Local No. 755 if they bought any Buck stove and range? A. No sir, I do not remember of such a resolution.

Q. You have not now the custody of the records? A. No sir.

Q. What is the membership of that local? A. About 980.

Cross-examination was waived.

JOHN EDWARD MUELLER.

Subscribed and sworn to before me, this 15th day of October, A. D. 1908.

TRUMAN A. SNELL,
*Notary Public for the County of
Macoupin and State of Illinois.*

88

Filed October 19, 1908.

In the Supreme Court of the District of Columbia.

No. 27305. Equity.

THE BUCK'S STOVE AND RANGE COMPANY
vs.
THE AMERICAN FEDERATION OF LABOR ET AL.

I, Edward F. Irwin a Notary Public in and for the County of Sangamon and State of Illinois, having my office at 205½ South 5th Street in the City of Springfield in said county, do hereby certify that, pursuant to the notices to that end hereto annexed, I proceeded on the 13th day of October, A. D. 1908, at the hour and place in said notices named, and in the presence of the counsel for the respective parties, Daniel Davenport, Esq., appearing for the complainant, and Jackson H. Ralston, Esq., for the defendants to take the following depositions of the witnesses: John H. Walker and

Nellie Leiper produced on behalf of the complainant, each of said witnesses being by me first duly sworn according to law, and thereupon being orally examined, upon the interrogatories propounded to them by the counsel for the said parties respectively, as set forth in said depositions, and each of the said witnesses did thereupon depose and say as therein set forth, the counsel for the parties having first consented that the testimony so taken before me should be taken down stenographically, and reduced to typewriting.

I further certify that then and there, at the time and place named the testimony of each of said witnesses was reduced to writing, as per the agreement of counsel; that each of the said witnesses read over the testimony given by him or her, respectively, signed in my presence, and that I have annexed to the said testimony the notices given for the taking of the same.

And I further certify that my fees for taking testimony are Twenty three & 80/100 dollars, which have been paid by the complainant; that I am not of counsel for either party to the
89 cause or interested in the event of the suit; that I am now about to close the same under my official seal as Notary Public, and, being unable to return the same in person to the Supreme Court of the District of Columbia, I shall now place the said depositions in a sealed envelope, directed "To the Clerk of the Supreme Court of the District of Columbia, Washington, D. C." and deposit the same with the postage prepaid, in the United States Mails.

Witness my hand and seal this sixteenth day of October A. D. 1908.

[SEAL.]

EDWARD F. IRWIN,

Notary Public, County of Sangamon and State of Illinois.

My commission expires May 21st, 1908.

90 JOHN HUNTER WALKER, being first duly sworn, in answer to interrogatories propounded by Daniel Davenport, Esq., testified as follows, to wit:

Q. What is your full name Mr. Walker? A. John Humphrey Walker.

Q. And how old are you? A. I am thirty six the 27th of last April.

Q. Where do you reside? A. In Danville, Illinois, Vermilion County.

Q. And where is your place of business? A. The State of Illinois.

Q. What is your business address? A. 507 Farmers National Bank Building, Springfield.

Q. Are you the President of District No. 12 United Mine Workers of America? A. Yes sir.

Q. How long have you held that position? A. Now I cannot be exact, from the date the former President died I have been President, I don't just remember what the date was.

Q. Were you a delegate to the convention of the American Federation of Labor held at Norfolk in November 1907? A. I suppose

I am permitted to ask counsel a question prior to answering that question.

Q. Why, I don't think so, were you a delegate? A. Yes sir.

Q. Representing, one of the delegates representing the United Mine Workers of America in that convention? A. Yes sir.

Q. How was you chosen as a President of District No. 12? A. By referendum vote.

Q. Of the members in the different locals? A. Yes sir.

Q. And were you a delegate to the 19th annual convention of the United Mine Workers of America held in January 1908 in Indianapolis, Indiana? A. Yes sir.

91 Q. And what local did you represent? A. I don't just remember the particular local union that I represented.

Q. Do you know Westville? A. I am a member of 503 local union, I represented it in a good many conventions, but I ain't just positive that I represented it in that convention.

Q. Did you represent local No. 503, Westville? A. I expect that was the local I represented.

Q. And where is Westville? A. It is along the southern part of Vermilion County, about six miles south of Danville.

Q. Did you attend the sessions of that convention? A. Some of them I did, some of them I did not.

Q. As President of District No. 12 were you a member of the committee on scale? A. Yes sir.

Q. Were you present in the convention on the fifth day of the convention, the morning session, being Saturday, January 25th? A. No sir, I could not recollect unless there was some matter that transpired in the convention that I can remember that I was present when it was acted on or mentioned, I could not say positively, as a member of the scale committee we were absent from the regular sessions of the convention a good many times, working in the committee.

Q. Were you present at the session of the convention when the following resolution was reported by the committee on resolutions:

Whereas, the Buck Stove & Range Co. of St. Louis, Mo., have taken legal steps to prevent organized labor in general and the officers and executive committee of the A. F. of L. in particular from advertising the above named firm as being on the "unfair" or "we don't patronize" list and

Whereas, by the issue of such an injunction or restraining order as prayed for by above named firm organized labor will be deprived of one of its most effective weapons and

Whereas, J. W. Van Cleve the President of above named firm, also President of the National Manufacturers Association stated that in a few years' time he would disrupt organized labor: Therefore be it

Resolved, That the U. M. W. of A. in nineteenth annual convention assembled place the Buck stoves and ranges on the unfair list, and any member of the U. M. W. of A. purchasing a stove of above

make be fined \$5.00 and failing to pay same be expelled from the organization.

HARVEY STROUD.
FRANK SCHAEFER.

Endorsed by Local Union 755, Staunton, Ill.

92 A. I remember being in the convention when a resolution of that nature, whether that particular one or not I cannot say, I remember the motion, that it was adopted.

Q. Did you make the motion for its adoption? A. I did.

Q. Who was in the chair? A. Now I would not say positive, I believe Mr. Mitchell was in the chair, but I could not swear to it.

Q. It appears in the minutes of the official proceedings of that convention that the committee recommended concurrence in the resolution, on motion of delegate Walker, J. H. the recommendation of the committee was concurred in the vote being unanimous, do you remember the incident? A. I remember making the motion.

Q. Do you remember anything about what took place? A. I remember making that motion, and further than that I know that it was declared carried, I would not be positive as the rule says how it was carried, but I came away from there satisfied it was carried all right.

Q. Now I want to ask you a few questions Mr. Walker about the locals in your district, do you know how many locals there are? A. I could not tell you positively now.

It is understood that all exceptions to competency, materiality and relevancy are reserved for the hearing without being specially made with reference to the questions.

Q. Now I have in my hand the proceedings of the 19th annual convention of the United Mine Workers of America, held in the City of Indianapolis, Indiana, January 21st to February 3rd inclusive, 1908, and in it there is a list of the local unions with the votes for different officers and for delegate to the American Federation of Labor, and I wish you would refresh your recollection sufficient to state whether or not that is a correct list of them? A. I suppose I am not permitted to ask any questions at this time, what do you mean to tell me?

93 Q. If you could take that list, if it could be used so that you would be able to confirm and verify it under oath? A. I don't believe I could.

Q. I want to shorten everything as much as possible because my friend wants to get away. A. I was declared a delegate by the convention.

Q. That is the point, here is the point, here is District No. 12, Local No. 1, do you know where that is located? A. I could not say positively, I think it is in Braidwood.

Q. Illinois? A. Yes sir, I think so, though I am not positive, I can tell you where 503 and 505 are.

Q. This Local No. 1 as reported here is at Braidwood, Illinois,

Local No. 2 is at Spring Valley, do you know? A. I could not swear positively, no, I expect possibly it is though, those records are apt to be correct, they are our official records.

Q. I wish you would look that over and see whether it is a list of them? A. Now I can't tell you, I cannot tell you the number of the different local unions only those I am positively acquainted with.

Q. Take this here? A. I could not swear they are there or whether they are not there, I believe No. 1 is at Braidwood, down to here I could not swear to another until you get to 41 at Catlin, I know 101 is Pana.

Q. Haven't you a list of the locals and their numbers? A. We have those, yes.

Q. Can you produce it? A. I expect I can go over to the office and get a list of the local unions.

Q. And their location? A. Locations.

Q. And their membership? A. Their membership.

Q. How long will it take you to get it? A. I don't know,
94 I don't know whether we have that list available so I could get at it.

Q. You are not able to say? A. I won't swear unless I know positively of my own knowledge that it is true.

Q. Perhaps Bro. Ralston this would satisfy you as to the correctness of it.

Mr. RALSTON: I presume it is correct.

Mr. DAVENPORT: This gives the names and numbers.

The WITNESS: The list that is over there, I suppose we have got it, is the only one I could swear to as being correct, it is the only one I know of my own knowledge that is correct, I could swear it was, the secretary's list.

Mr. DAVENPORT: Well, I guess that would be sufficient if you can do that, it is simply a formal matter, but what do you say?

Mr. RALSTON: What do you say? (Addressing Mr. Condon, attorney of witness.)

Mr. CONDON: I am willing that anything that Mr. Walker can prove of his own personal knowledge.

Mr. DAVENPORT: Yes, but what I want to get at is a list of the unions, the numbers and location.

The WITNESS: I am supposed to be making a deposition, stating what I know of my own knowledge in this case, in order to get that list I would have to go and get another man's list that I have not got myself, and swear that that was his list, of course the matters are of record.

Mr. DAVENPORT: You mean you are not familiar enough with the different local unions and their membership?

A. No, there is seventy-five thousand of the organization in this state and pretty close to four hundred local unions I guess, and one man who keeps going around can't get them all in his mind.

Q. Are they widely scattered throughout the state? A. Some close together, and some quite a distance between them.

Q. Well, I wish you would look that list over and see how many

of them you do recognize as being locals of the United Mine Workers? A. Well, I can positively recognize No. 41 of 95 Catlin; 101 of Pana; 283 of Westville; 309 Westville; 310 Grape Creek; 312 Muncie.

Q. All in the State of Illinois? A. Yes sir. 329 Westville; 322 Danville; 409 Westville; 503 Westville; 505 Braceville; 686 Glen Carbon.

Mr. RALSTON: May I ask what has all this to do with the question of whether John Mitchell is or is not guilty of contempt of court.

Mr. DAVENPORT: Well, we claim it is pertinent.

Mr. RALSTON: Then we give notice that we shall ask that the cost of the deposition be placed under the circumstances on the complainants.

A. 777 Braceville; 800 Streator; 948 Oakwood; 1085 Cardiff; 1202 Danville; 1356 Georgetown; 1749 Westville; 2467 Danville; that is all of them.

Q. Those you recognize as the numbers of those locals and are located at those places? A. Yes sir.

Q. How many members of the United Mine Workers of America are there in Illinois you say? A. I understand, I could not say positively, but I understand somewhere in the neighborhood of seventy-five thousand.

Q. Were you present in the convention of the American Federation of Labor held at Norfolk in November 1907, when the action was taken on the report of the committee, special committee appointed on the matter of the suit of the Buck Stove & Range Company against the American Federation of Labor? A. I don't recollect.

Q. If you were shown the record, the official record of the proceedings on that day do you think your recollection would be refreshed at all on the subject? A. I could not say, if there was any incident that I was interested in and occurred while I was in there that is mentioned specifically I might recall that.

Q. Well, I call your attention to the proceeding on the sixth day, the morning session, touching a report and resolution which was considered in regard to the Trade & Labor Congress of Canada, to the effect that the United Brotherhood of Carpenters and Joiners of America be exempt from paying per capita tax on this Canadian membership as unfair to be called on more than once on the trade membership or any part of it? A. It seems to me I heard a discussion on that subject.

Q. Did you take part in it? A. I don't remember.

A. It appears by the record the question was further discussed by Duncan, Walker, J. H. Black, Stevens, Newton, Carey, Menewall, Lawrence, Deboe, Wilson and Vice President Simpson of the Canadian Trade and Labor Congress. A. It must have been me, although I would not swear positive.

Q. Have you no recollection about it? A. I have no positive recollection of discussing it in convention, I have an impression I

heard it discussed in the convention, or heard it while the convention was on there.

Q. The reason I direct your attention to this was that it immediately precedes the action taken by the convention on the report of the special committee in regard to the suit brought, does that bring it to your mind at all, the fact that you were present? A. I could not swear positively that I was present.

Q. What is your impression about it? A. I expect I was.

Q. Your impression is that you were present? A. Yes sir.

Q. When the resolution relative to the Buck Stove & Range Company was adopted? A. I don't remember.

Q. Have you any recollection about it? A. I haven't any positive recollection.

Q. Have you an impression? A. I have not any impression.

Q. Now Mr. Walker, when did you first learn of this resolution
73 which you moved the adoption of in the United Mine Workers'
Convention, placing the Buck Stove & Range Company on
97 the unfair list of the United Mine Workers of America? A.
When did I learn of the resolution itself?

Q. Yes? A. I don't recollect, I may have heard it read before the members of the committee, I may not have heard it read until the committee read it.

Q. You know there was such a resolution as that introduced? A. I could not say positively that I know the resolution was there until it was introduced, until it was read.

Q. Well, read when it was introduced in the convention or read when it was reported on by the committee? A. I could not say that I had any knowledge of it at all until it was read by the committee.

Q. Do you remember Mr. Ryan reporting it? A. I believe Mr. Ryan was chairman of the committee.

Q. He was secretary? A. Well, I don't remember whether he read it or not.

Q. Well, you remember his taking the platform and reading it? A. I don't recollect positively.

Q. What is your impression about it? A. I expect possibly he did, generally he reads them, he has got a good voice, and matters of that kind in convention, much of it, particularly the report of a resolution committee comes in with quite a good deal of reading to it, I would not swear positively he read it or some other member of the committee read it.

Q. Have you given all the information you have upon this subject? A. Oh, I might say in a general way I heard Van Cleave had a strike on at his place down yonder, trouble on.

Q. As to the introduction and action upon this resolution? A. Well, I believe I have given all the information I have on it.

Q. Do you know what was done with the resolution after it was adopted? A. I do not.

Q. Is it a part of your duty to visit the locals? A. Yes sir.

Q. Do you know whether or not a notice of this action in
98 regard to this resolution is in the different locals? A. I could not say positively.

Q. What is your impression about it? A. I have not any direct knowledge of it at all.

Witness on cross-examination in answer to interrogatories propounded by Jackson H. Ralston, Esq., testified as follows, to wit:

Q. Mr. Walker, how long have you held your present position in District 12? A. Since the death of the former President L. B. Smith.

Q. How long has that been? A. I could not say just what date Billy died, but I have been elected to the position twice since then.

Q. Several years then? A. Well, it is all of two years I think I have been in the position now.

Q. Mr. Walker, you are acquainted with John Mitchell are you not? A. Personally, yes sir.

Q. Do you know his reputation as a law abiding citizen? A. Yes sir.

Q. State what it is?

Mr. DAVENPORT: The reservation of exceptions is to apply to myself as well as to Mr. Ralston.

A. I have been acquainted with John Mitchell personally since I was nine or ten years old, and all I know of him is to his credit.

Q. Did you ever hear of him being charged with crime before he was charged with it by the Buck Stove & Range Company? A. Never in my life.

Q. Did you ever hear of him being charged with any disrespect or disobedience to court orders before that? A. No sir.

Q. What is Mr. Mitchell doing at present? A. He is chairman of the trade agreement department of the Civic Federation, Second Vice President of the American Federation of Labor.

Q. Where is he now located? A. New York City, 281 99 Fourth Avenue.

Q. Seth Low is President of that organization is he not? A. Yes, at least that is what I have been told by Mr. Mitchell, and from newspapers, of my own knowledge positive I could not swear I have been informed to that effect by people that I considered reliable.

Q. And he was elected to that position was he not after he had been charged with boycotting and other offenses by the Buck Stove & Range Company? A. Yes sir.

Q. Now Mr. Walker, were you in Chicago during the time of the republican convention in June? A. I was up there one day on board meeting I think, I aint positive a board meeting or not, but I remember being there one or two days, I think two days.

Q. First let me ask you, Mr. Van Cleave is President of the Buck Stove & Range Company, the complainant in this action is he not? A. That is what I have been informed.

Q. He is also President of the National Association of Manufacturers is he not? A. That has been my information.

Q. And Vice President of the Citizens Industrial Alliance? A. Yes sir.

Q. I wish you would state what the attitude of those two organizations is towards organized labor.

Special objection by Mr. Davenport to this line of inquiry as immaterial, irrelevant and incompetent, and give notice that we shall ask to have all testimony relative thereto stricken from the record, and the costs of the matter put upon the defendant.

A. From all the information I can get they have been bitterly antagonistic for a long time.

Q. State whether they have attempted and are now attempting to destroy the trades unions in this country?

MR. DAVENPORT: The witness is to bear in mind he is to testify of his own knowledge.

100 A. I thank you for your kindness and advice in the matter; the things that I have personally come in contact with so far as my information goes emanating from these two organizations have been at all times for what is known as the open shop, open shop with them means that no union man could work for them, that had a particle of unionism or manhood about him.

Q. Now Mr. Walker, would you state whether those two organizations through their officers have undertaken to dictate legislation adverse to the demands of union labor? A. I have not positive, direct personal knowledge, only what I get from our legislative committees, and from the different other labor unions.

Q. Have they announced their doing it, have they not? A. They have announced at least statements to that effect for I remember in the papers supposed to be published by them themselves.

Q. Now these organizations which are antagonistic as you state to the unions, have they also appeared as partisans to political organizations? A. Well, they have been very active in politics.

Q. Have they controlled or claim that they controlled and knew the complexion of the last republican convention? A. In a general way that has been my information.

Special objection by Mr. Davenport that this is not cross examination of anything the witness has been inquired about, and further that there is no foundation laid in the pleadings for any such testimony.

Q. I will read specially into the record as follows:

"Anti Injunction.—What does Anti Injunction mean? It means the enactment of new laws to prevent the peoples' courts from issuing any orders to stop men known to be intending to assault workmen, or to destroy property. In other words tie the hands of the courts, to not allow them to protect persons or property, and the honest members of the convention at Chicago hooted down the attack on the courts and refused to insert such a plank in the platform, inserting in place of it the confidence and integrity of our courts, and demanding that their present power to protect all citizens be maintained, that was the basis of the plank adopted. Who Managed? It was stated that the National Association of Manu-

facturers brought about this result. That is not strictly true.

101 The National Council of the Citizens Industrial Association of America, represented by its counsel, Secretary of the National Industrial Association, James A. Emery, was in charge of the work of protection, and allied with it were one hundred and thirty eight national and local associations of various kinds, including the Manufacturers. This was the work of the great thinking, working masses, of men who do things and try to keep the industries of America busy, and over twenty thousand telegrams came in one day to the delegates at the republican convention building for endorsement of our courts, and denouncing the attempt of intending law breakers to force upon the people laws which would allow the sluggers and dynamiters of labor to do their acts immune from punishment."

Let me ask at this point Mr. Walker, if you have ever heard or known of Mr. Gompers, Mr. Mitchell, Mr. Morrison or their associates being sluggers or dynamiters? A. No sir, I am pretty well acquainted with all of them, and if a man met me on the street and asked me that about them, and I thought he actually meant to damage them, I would try to get the basis for a damage suit for Gompers, Mitchell and Morrison, otherwise of course I would have to let him go on account of his ignorance.

Q. "Failing in their attempted impudence the leaders of the labor trust took their tools and went out to Denver, and there the noted sixteen to one dreamer, supported by the discontent from the black hand up, met them with the invitation to draw up any terms just so they would deliver the vote, the deal was made by which if they elect the democratic president, is to advocate measures in the interests *in the interests* of the labor trust by fighting the United States Courts and obstructing their acts when attempting to protect the persons and property of the common citizens."

Now do you know whether the Citizens Industrial Association so called has through this organ, the Square Deal, taken a position saying that Mr. Taft if he took the view of labor organizations which President Roosevelt says he does, would be repudiating his own decisions? A. I read from the official organ of October 1908 on page 88 beginning after the word "made" down about the middle of the page as follows:

102 "The labor trust is busy in sowing the seeds of doubt in the minds of those who are opposed to its operations and demands, and will use this last assertion of the President to influence all friends of the open shop to believe that Taft has abandoned the attitude he maintained while a judge on the bench in matters concerning labor disputes and injunctions to shake their confidence in him as much as possible and alienate them from his support, this should be guarded against."

Q. I will ask you if the Square Deal as representative of the complainant's officer Mr. Van Cleve and of the other organizations, has resisted all demands of labor in congress as well as elsewhere, or claims so to have done? A. I will read from the organ issued Octo-

ber 1908, beginning at the last paragraph on page 84, which reads as follows:

103 The work done by this association at Washington during the recent session of Congress was of inestimable value. For many years the Labor Trust had been permitted to present its "demands" to Congress with all the specious and sophistical arguments with which its leaders are fecund, without contradiction. No one appears before the committees of Congress to represent the people and to show their side of the case, and it was natural that congressmen should believe that in its attitude the Labor Trust had the support of the people of the country. The menace involved in the attack upon the independence and power of the judiciary as made by Mr. Gompers and his associates, as well as the danger to business interests involved in other "demands" presented by him seemed so grave last winter that it was felt that something extraordinary would have to be done for the protection of the common welfare, and a new organization known as The National Council for Industrial Defense comprising in its membership the Citizens' Industrial Association of America, the National Association of Manufacturers and upwards of one hundred and fifty other National Trades Associations and organizations of citizens, was called into being with Mr. Van Cleave, President of the National Association of Manufacturers, as chairman and Mr. James A. Emery, Secretary of the Citizens' Industrial Association of America, as general counsel and manager. The campaign which followed was a sharp and hard fought contest unparalleled for its vigor and spirit and in its educational effect upon Congress. The result is shown by all men and has the enthusiastic approval of every well informed patriot in the country. The contest was subsequently transferred to the National Republican Convention in Chicago where Mr. Emery, single handed, met the shrewd leaders of the Labor Trust and overthrew them against the tremendous odds presented by the weakness of politicians who without his efforts would have unquestionably surrendered inherent rights of manhood in the hope of gaining the votes of organized labor.

While the work done by the Citizens' Industrial Association of America has been invaluable it has not been without great expense financially. Especially was the campaign in Washington last winter costly, but it was well worth the expenditure. In defraying
104 its expense the Citizens' Industrial Association of America furnished in full half of all the money required. The work in Washington was really in the line of the purposes for which the Citizens' Industrial Association of America was originally organized, and the fact that the front of the force was met and overthrew Mr. Gompers and his associates bore another name grew out of fortuitous circumstances, which should not, however be allowed to deprive this Association of the credit that is due it."

Q. Mr. Walker, do you know the relationship between M. M. Mulhall and the National Association of Manufacturers? A. A I cannot say positively, my impression is that I have from newspaper and other sources of information that he is connected with them.

Q. Do you know or have you heard whether he was engaged in the

business of strike breaking? A. My impression is that he was active in some difficulties in the country as against the unions when trouble was on.

Q. What work is he doing at the present time? A. I cannot say positively, I expect though he will be helping to carry the ticket.

Q. Do you know whether he has been in Indianapolis or Lincoln or what he has been doing there, or have you heard? A. Well, the newspaper report here, Indianapolis, October 9th.

Mr. DAVENPORT: What is the witness reading now?

Q. The New York Sun, October 10, 1908. A. Witness reads as follows:

105

Unions Object to Mulhall.

Say His Connection with the Campaign Will Take Votes from Taft.

Indianapolis, Oct. 9.—Members of labor organizations who are supporting Judge Taft began to besiege Republican Headquarters here to day and to demand that the committee order M. M. Mulhall, who has been sending letters to factory employees signed "Workingmen's Protective Association" to leave the city at once.

They represented to the committee that Mulhall is in charge of the strike breaking department of the National Association of Manufacturers, and in proof of this assertion produced an article from the Typographical Journal, the official organ of the International Typographical Union, in which Mulhall was denounced as an enemy of organized labor.

Republicans at headquarters were greatly worried over the matter, as the Taft Union men assured them that hundreds of votes would be lost to the party if the work of Mulhall is recognized.

Acting chairman Sims promised to look into the matter as soon as Mulhall returns from the east.

"Mulhall came here sometime ago," said Sims "and showed me a couple of letters which he said was his authority for doing the work he was about to undertake in this city. One appeared to be a letter from the national committee and the other from the Congressional committee. I did not take time to read them and do not know whose names were signed to them. I assumed that he was all right and made no objection to his going ahead. He has been around the republican state headquarters several times, but I have not had much conversation with him.

If he does not represent the national committee and he does really represent the National Manufacturers' Association I shall put a stop to him and his work at once. We will not have anything of the kind of the thing going on. The Republican campaign shall not be tied up even in the most remote manner with the National Manufacturers Association if I can prevent it. If Mulhall proves that he is here with the sanction or under the direction of the national committee then of course I have nothing to say but I shall find out just as soon as he comes back to the city.

106 Q. Mr. Walker, has your organization at any time been made the object of spies? A. Well sir, I have had a member, I don't remember his name, meet me at Murphysboro about a year ago while I was down there, and say that he had been offered \$22.50 a week and what he made in the mine, to act for a detective agency, who were reporting to a national association of employers, to keep them posted as to the feelings of the members, their actions in the organization, and in a general way get all the knowledge he could from that union, the same statement has been made to me by men who are members of our local unions in Duquoin, and they asked me what to do, I told them to accept the job, take the money and report to us what they reported to them.

Q. Do you know whether there are organizations formed whose business is to spy on labor organizations? A. I cannot say only from the evidence, I know they wasn't given \$22.50 a week from our organization.

Q. I show you that paper and state what it is? A. I have read in different labor papers of associations being formed for the purpose of furnishing men to any employers who wanted to pay the price, to go into the local unions and report their actions, it was in socialist papers as well as other labor papers.

Q. State what that is? A. A letter. (Witness reads as follows:)

107 J. H. Smith, President. A. C. Williams, Treasurer.

John Weber, Secretary.

E. S. Smith, Vice-Pres. W. J. Kirkpatrick, Dis. Mang.

The Corporations Auxiliary Company, Chamber of Commerce of Building.

New York office, 1167 Hudson Terminal.

Chicago office, 828 Continental National Bank Bldg.

CLEVELAND, O., Oct. 1st, 1908.

Personal and Confidential.

Great Eastern Telephone Co., New York, N. Y.

GENTLEMEN: The 28th annual convention of the American Federation of Labor will be held at Denver, Col., beginning Monday, November 9th, 1908, and will continue in session until the business of the convention has been completed, which will be from ten days to two weeks.

As usual, we expect to have several delegates present and will be in a position to furnish you, as the convention proceeds, with a complete report of the entire proceedings, including secret sessions. In view of the fact that the A. F. of L. made demands this year upon both the Republican and Democratic nominating conventions and is actively entering into politics, and has put into the field an increased force of secret organizers covering almost every branch of trade, this convention will undoubtedly be the most important ever held by the Federation.

It will, among other things, consider and act upon matters of vast

importance and seriously affecting the railroad, manufacturing and employing interests of this country, including contemplated labor legislation, both in congress and the several states, particularly the Eight Hour Laws, Injunction Laws, Child Labor Laws, Convict Labor Laws, Employers' Liability Laws, Factory Inspection and Chinese Exclusion Laws, Government Ownership and Immigration Laws, Insurance Laws, Pilotage Laws etc., in fact, matters will be considered which will affect every employer in every line of industry in the country. Pending strikes, boycotts and lockouts will be also *be* considered.

The A. F. of L. financial statement July 1st, 1908, shows 108 \$101,885.69 in the Defense Fund as against \$101,320.14 on

August 1st, 1907, and with a membership of over one and one-half millions, the Federation is stronger than ever before, and in every combative frame of mind.

You must certainly realize the importance of securing this information at the earliest possible date, and under our co-operative plan, we are this year able to furnish you with a copy of this report for the sum of \$15.00 and would be pleased to receive your order for same.

If the report is desired, we should hear from you by telegram or letter at your earliest convenience, by return mail, if possible.

Very truly yours,

THE CORPORATIONS AUXILIARY CO.,

By J. H. SMITH, *President*.

G-2.

Q. Mr. Walker, I will get you to answer more fully with regard to Mr. Mitchell, you gave your own opinion I believe as to his character, have you heard it discussed? A. Among friends of his only and some strangers.

Q. Do you feel familiar enough to state what his reputation is? A. Yes sir.

Q. You may state what it is then? A. Well, I don't know of a man who knows John Mitchell for what he is- but what has got the highest regard for him as a citizen and as a man in every way, I have on numerous occasions heard him advise others in discussing different problems that affected our organization, I have heard him say that he believed what laws existed should be lived up to, if necessary they should be changed, but above all things an organization of labor must observe the law and give the benefit of the doubt to the other fellow in order to be able to stand free from any possibility of having grounds to actually discredit the laboring man, and 109 as a man he has on every occasion so far as I know, and I have known him being concerned in a good many disputes, tried to live up to that standard himself in that respect.

Q. Has he been criticised among labor organizations for conservatism? A. Oh, there has been a great many members that have said he was not radical enough, he was too conservative, wasn't moving fast enough.

MR. DAVENPORT: I wish to note here for fear that possibly that my notice to strike out was not specific enough, that I shall move to strike out the notice from the Washington Star, from the Square Deal and from the New York Sun, and all testimony of Mr. Walker relative thereto, as immaterial, irrelevant and incompetent, hearsay, and shall ask the costs may be put upon the defendant.

JOHN HUNTER WALKER.

Subscribed and sworn to before me this 16th day of October, A. D. 1908.

[SEAL.]

EDWARD F. IRWIN.

Notary Public.

My commission expires May 21st, 1912.

NELLIE E. LEIPER, being first duly sworn, in answer to interrogatories propounded by Daniel Davenport, Esq., testified as follows, to wit:

Q. What is your full name? A. Nellie E. Leiper.

Q. Where do you reside? A. Springfield.

Q. What is your office address? A. 504 Farmers Bank Building.

Q. What is your position in connection with the United Mine Workers of America? A. I am now stenographer in the office of the Treasurer of District 12.

Q. That comprises the State of Illinois? A. Yes sir.

Q. Previous to your holding that position what position did you have? A. Secretary to the Secretary-Treasurer of the United Mine Workers.

Q. What was his name? A. W. B. Wilson.

Q. How long had you held that position? A. Five years.

110 Q. And where was your office? A. 1106 State Life Building, Indianapolis, Indiana.

Q. As such did you have charge of sending out circulars and notices to the locals? A. I saw it done largely.

Q. And Mr. Wilson's term of office continued until the first of April, 1908? A. Yes sir.

Q. After the adoption of resolution No. 73 that has been referred to placing the Buck Stove & Range Company on the unfair list of United Mine Workers of America which you have heard read what was done with the resolution? A. In what way do you mean?

Q. What notices were sent out to the locals? A. I could not say positively.

Q. Well, what is your impression about it?

MR. COXTON: We object to the impression, but what she observed.

Q. What is your impression about it? A. Really I have no definite recollection, you must remember there is a great deal of work in the office.

Q. I know, but what is your impression as to what was done with it? A. I think that a circular letter was sent to the local unions, but I would not say positively that it was.

Q. That is your impression? A. That is my impression.

Q. And do you know what locals, all locals? A. I presume to all the locals.

Q. And are you able to state the locals, the list of locals in the State of Illinois? A. In the State of Illinois, no, I have not familiarized myself with them, I have only been in it since June 1st and I have not paid any particular attention to that part of it.

Q. Well, as secretary to the secretary who prepared these official proceedings of the United Mine Workers do you recognize it? A. As the proceedings?

111 Q. Yes? A. Yes sir.

Q. And did you do any work upon it? A. I did some of it.

Q. Now I want to direct your attention to the list of locals here with the districts, and have you state whether or not in your opinion that is a correct list of them? A. That is gathered by the tellers, I have nothing to do with that, absolutely nothing.

Q. Well, that is setting forth the income? A. This is a list prepared by the clerks in the office and presumably it is correct.

Q. Do you recall in June or May 1907 receiving circulars from the Metal Polishers, Buffers, Blowers, Brass Moulders and Brass & Silver Workers, International Union of North America, relative to the object of the Buck Stove & Range Company? A. I could not say, I don't remember.

Q. I notice in the official journal of that organization for the month of June the following statement: "The international office has just completed arrangements with the United Mine Workers of America whereby they have mailed to their three thousand locals a circular regarding the Buck Stove & Range Company, this office having the circulars printed and folded and then expressed in bulk to the union headquarters of the United Workers of America, they furnishing the envelopes, addressing the same and defraying the expense of postage, this firm making special efforts to sell the stoves in unfair districts. Do you know anything about it? A. No, we have lots of things of that kind, my impression is we sent out one for the metal polishers, but I would not say positively we did.

Q. But it is your impression you did? A. Yes sir.

Q. Can you tell us where Mr. W. B. Wilson lives? A. Blossberg, Pennsylvania.

112 Q. He was succeeded by Mr. W. D. Ryan? A. Yes sir.

Q. Who is at present the Secretary-Treasurer of the United Mine Workers of America? A. Yes sir.

(Signed)

NELLA E. LEIPER.

Subscribed and sworn to before me this 14th day of Oct. 1908.

[NOTARIAL SEAL.]

EDWARD F. IRWIN,

Notary Public.

113 In the Supreme Court of the District of Columbia.

No. 27305. Eq.

THE BUCK'S STOVE & RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

Notice.

Messrs. Ralston & Siddons and Alton B. Parker, Solicitors for Respondents.

GENTLEMEN: Please take notice that on Thursday, the 22nd day of October, A. D. 1908, at 10 o'clock A. M., and from day to day thereafter until the same can be completed, the depositions *de bene esse*, before William Kurtz, Notary Public, at his office in Room 1008 Traction Company Building, Cincinnati, Hamilton County, Ohio, will be taken of the following witnesses; on behalf of petitioner, all of whom are non-residents of the District of Columbia: A. B. Grout and Charles R. Atherton, all of the Seave Building, Cincinnati, Ohio.

DANIEL DAVENPORT.

Solicitor for Petitioner.

Service of the above notice accepted this 19th day of October, A. D. 1908.

RALSTON & SIDDON'S.

Solicitors for Respondents.

114 Filed October 26, 1908.

In the Supreme Court of the District of Columbia.

In Equity. No. 72305.

THE BUCK STOVE AND RANGE COMPANY, Complainant,

vs.

THE AMERICAN FEDERATION OF LABOR ET AL., Respondents.

Depositions of A. B. Grout and Charles R. Atherton, Taken on Behalf of Complainant.

I, Wm. Jerome Kuertz, a Notary Public in and for the County of Hamilton and State of Ohio, having my office at No. 1008 Traction Building, in the City of Cincinnati, in said county and State, do hereby certify that pursuant to the notice to that end hereto annexed, I proceeded on the 22nd day of October, A. D. 1908, at the hour and place in said notice named and in the presence of the counsel for the respective parties, Daniel Davenport, Esquire, ap-

pearing for the complainant, and Jackson H. Ralston, Esquire, for the defendants, to take the following depositions of the witnesses A. B. Grout and Charles R. Atherton, produced on behalf of the complainant, each of said witnesses being by me first duly sworn according to law, and thereupon being orally examined, upon the interrogatories propounded to them by the counsel for the said parties respectively, as set forth in said depositions, and each of the said witnesses did thereupon depose and say as therein set forth, the counsel for the parties having first consented that the testimony so taken before me should be taken down stenographically, and reduced to typewriting and the said examination being proceeded with from day to day until the 23rd day of October, 1908, when the same was completed.

I further certify that then and there, at the time and place, 115 named, the testimony of each of said witnesses was reduced to writing as per agreement of counsel; that each of the said witnesses read over the testimony given by him respectively, signed in my presence, and that I have annexed to the said testimony the notice given for the taking of the same.

And I further certify that my fees for taking said testimony are Twenty-eight and 50/100 dollars which have been paid by the complainant; that I am not of counsel for either party to the cause, or interested in the event of the suit; that I am now about to close the same under my official seal as Notary Public, and, being unable to return the same in person to the Supreme Court of the District of Columbia, I shall now place the said depositions in a sealed envelope, directed "To the Clerk of the Supreme Court of the District of Columbia, Washington, D. C.," and deposit the same with the postage prepaid, in the United States mails.

Witness my hand and seal this 23rd day of October, A. D. 1908. My commission expires January 1, 1911.

[SEAL.]

WM. JEROME KUERTZ,
Notary Public, Hamilton County, Ohio.

Stipulation.

It is stipulated by and between the parties hereto, by their attorneys, that either side may at the hearing rely upon any objection which they may see fit to adduce relative to the competency or materiality of the testimony, or particular questions, as if such objections had been made specifically to each question as asked.

It is further agreed by the parties hereto that the testimony may be taken down stenographically and reduced to writing by the notary.

116 A. B. GROUT, a witness of lawful age, being produced, sworn and examined, testified as follows, on the part of the complainant:

Direct examination.

By Mr. DAVENPORT:

Q. What is your full name? A. Adelbert B. Grout, commonly known as A. B. Grout.

Q. What does the A stand for? A. Adelbert.

Q. Where do you reside? A. Cincinnati, Ohio.

Q. Are you connected with The Metal Polishers, Buffers, Platers, Brass Moulders and Brass and Silver Workers International Union of North America? A. Yes sir; I am President of the organization.

Q. Are their headquarters here in Cincinnati? A. Yes sir.

Q. In what building? A. Neave Building.

Q. Is that organization composed of local unions? A. Yes sir.

Q. How many? A. I am not in a position to state exactly.

Q. I will ask you to look at this document, or this pamphlet and state whether or not you recognize that? (handing witness pamphlet).

A. I do.

Q. And what is it? A. It is our official journal.

Q. I will ask you to turn to page 48 of that pamphlet and state whether or not what appears therein is a list of the local unions of the Metal Polishers, etc. International Union of North America? A. I believe it is.

Mr. DAVENPORT: Mr. Ralston, without delaying this testimony, I will ask that this list may be inserted in the deposition at this place.

Mr. RALSTON: All right.

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|-----|------------------------|---------------------------|
| 117 | 1. Detroit, Mich. | 18. La Crosse, Wis. |
| | 2. Toledo, Ohio. | 19. Cleveland, Ohio. |
| | 3. Cleveland, Ohio. | 20. Danville, Pa. |
| | 4. Piqua, Ohio. | 21. Toronto, Ont. |
| | 5. Dayton, Ohio. | 23. Holyoke, Mass. |
| | 6. Chicago, Ills. | 24. Providence, R. I. |
| | 7. Grand Rapids, Mich. | 25. New Haven, Conn. |
| | 8. Meriden, Conn. | 26. Hampton, Ont. |
| | 9. Elizabeth, N. J. | 27. Chicopee Falls, Mass. |
| | 10. Milwaukee, Wis. | 28. So. Pittsburg, Tenn. |
| | 12. Brooklyn, N. Y. | 29. Albany, N. Y. |
| | 13. St. Louis, Mo. | 30. Springfield, Mass. |
| | 14. Seattle, Wash. | 32. London, Ont. |
| | 15. Syracuse, N. Y. | 34. New York City. |
| | 16. La Porte, Ind. | 35. Hartford, Conn. |
| | 17. Buffalo, N. Y. | 36. Port Colbourne, Ont. |
| 118 | 37. Waterbury, Conn. | 76. Schenectady, N. Y. |
| | 38. Jamestown, N. Y. | 78. Schenectady, N. Y. |
| | 40. Bridgeport, Conn. | 79. Troy, N. Y. |
| | 41. Dunkirk, N. Y. | 80. Westfield, Mass. |

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|-------------------------------|-------------------------------------------|
| 42. Ilion, N. Y. | 84. Orange, Mass. |
| 43. Hamilton, Ohio. | 86. Bristol, Conn. |
| 44. Newark, N. J. | 89. Racine, Wis. |
| 45. Kenosha, Wis. | 90. Philadelphia, Penn. |
| 46. New York City, N. Y. | 95. Boston, Mass. |
| 47. Amesbury, Mass. | 97. St. Catherine, Ont. |
| 48. Middletown, Ohio. | 98. Newark, N. J. |
| 49. Rock Island, Ill. | 99. St. Louis, Mo. |
| 50. Watertown, Mass. | 102. Springfield, Ohio. |
| 52. Thompsonville, Conn. | 103. Lowell, Mass. |
| 54. Derby, Conn. | 111. Quincy, Ills. |
| 55. Boston, Mass. | 113. Rochester, N. Y. |
| 56. Louisville, Ky. | 114. Aurora, Ills. |
| 57. Elmira, N. Y. | 116. Minneapolis, Minn.,
and St. Paul. |
| 58. Nashville, Tenn. | 118. Athol, Mass. |
| 60. Mansfield, Ohio. | 121. Paterson, N. J. |
| 62. Dowagiac, Mich. | 124. Columbus, Ohio. |
| 63. Toronto, Ont.,
Canada. | 125. Watertown, N. Y. |
| 64. Rock Island, Ill. | 126. New Britain, Conn. |
| 65. Haydenville, Mass. | 128. San Francisco, Cal. |
| 66. St. Louis, Mo. | 132. Cleveland, Ohio. |
| 67. Los Angeles, Cal. | 137. Hannibal, Mo. |
| 68. Cincinnati, Ohio. | 138. Belleville, Ill. |
| 69. Toledo, Ohio. | 139. Northampton, Mass. |
| 70. Cincinnati, Ohio. | 140. Waukegan, Ill. |
| 71. Sidney, Ohio. | 146. Kansas City, Mo. |
| 72. Richmond, Ind. | 151. Worcester, Mass. |
| 73. Wallingford, Conn. | 154. Taunton, Mass. |
| 119 156. Geneva, N. Y. | 155. Bay State, Mass. |
| 158. San Francisco, Cal. | 252. Cleveland, Ohio. |
| 160. Cleveland, Ohio. | 255. Turtle Creek, Pa. |
| 169. Norwich, Conn. | 272. Pittsburg, Penn. |
| 171. Indianapolis, Ind. | 280. Newark, N. J. |
| 172. Detroit, Mich. | 282. New York City. |
| 174. Turner's Falls, Mass. | 292. Southbridge, Mass. |
| 175. Kensington, Ill. | 296. New York City. |
| 177. Allegheny, Pa. | 297. Elyria, Ohio. |
| 179. Woodstock, Ill. | 320. Montreal, Can. |
| 181. Unionville, Conn. | 322. Kenosha, Wis. |
| 182. Nashua, N. H. | 323. Kokomo, Ind. |
| 183. Southington, Conn. | 324. Meriden, Conn. |
| 187. Wakefield, Mass. | 325. Evansville, Ind. |
| 189. Newark, N. J. | 327. Lyons, Ia. |
| 199. Greenfield, Mass. | 328. Royersford, Pa. |
| 207. Waterbury, Conn. | 329. New Kensington, Pa. |
| 209. New Kensington, Pa. | 330. South Bend, Ind. |
| 221. Freeport, Ills. | 333. Kenosha, Wis. |
| 234. Fremont, Ohio. | 335. Elkhart, Ind. |
| 245. Decatur, Ill. | 336. New Haven, Conn. |
| 246. Albany, N. Y. | 337. Southfield, N. Y. |
| | 339. Kenosha, Wis. |

120 Q. How long have you been connected with the Metal Polishers etc. International Union of North America? A. Eighteen years.

Q. And how long have you been the President? A. Since August 1905.

Q. Can you tell us of how many individual members approximately that union consists? A. No sir.

Q. Not even approximately? A. No sir; not at this time. I could not get within several thousand of it.

Q. Could you give us the number a year ago? A. No sir, I could not.

Q. Well, are there as many as five thousand? A. I can safely say "Yes" to that.

Q. Would Mr. Atherton, who I believe is the International Secretary, be able to furnish that information more accurately? A. I can't say.

Q. Were you a delegate from the Metal Polishers International Union of N. A. to the Convention of the American Federation of Labor held at Minneapolis, in November, 1906? A. Yes sir.

Q. Did you go by virtue of your Presidency of the organization? A. Yes sir.

Q. By the provisions of your constitution you are a delegate to all conventions of the American Federation of Labor? A. Yes sir.

Q. At that convention of the American Federation of Labor, were you a member of the Committee on Boycotts? A. Yes sir.

Q. Can you recall now what other gentlemen were members of that committee. A. Why, one or two.

Q. Who were they? A. A man by the name of Flynn. He is about the only one I am positive of now.

121 Q. What organization did he represent in the convention.

A. The boilermakers.

Q. Has your organization, the Metal Polishers, Buffers, Platers, Brass Molders and Brass and Silver Workers International Union of North America an agreement with the Stove Founders National Defense Association? A. Yes.

Q. Do you know how long that agreement has been in existence? A. Since 1902, to the best of my knowledge.

Q. I show you Exhibit A, to be found on page 38 of the original record in this case, and on page- 36 and 37 of the transcript of record in the Court of Appeals of the District of Columbia, and ask you whether or not that sets forth the agreement to which you have referred to between The Stove Founders National Defense Association, and The Metal Polishers etc. International Union of North America? A. I believe it is—it is substantially the same.

Q. And was that agreement in force during the years 1906, 1907 and 1908? A. Yes sir.

Q. I will ask you whether or not the Metal Polishers, Buffers, Platers, Brass Molders and Brass Workers' International Union of North America is affiliated with the American Federation of Labor? A. Yes sir.

Q. Has it a charter from it? A. Yes sir.

Q. I call your attention to pages 213, 214 of the original record in this case, being pages 143 and 144 of the transcript of the record of the case in the Court of Appeals,—to Exhibit F., which is as follows:

EXHIBIT F.

Metal Polishers, Buffers, Platers, Brass Molders, Brass and Silver Workers' Union of North America.

Affiliated with American Federation of Labor.

An Injury to One the Concern of All.

122

ST. LOUIS, MO., *November, 1906.*

To Organized Labor and Friends, Greeting:

On August 29th, 1908, The Metal Polishers, Buffers and Platers of Local No. 13, St. Louis, Mo., employed at the Buck's Stove and Range Company were compelled to strike on account of the management of said firm insisting on the Polishers, Buffers and Platers in their employ returning from the 9-hour to the 10 hour work day. In the month of June 1904, the members of the above-named Union employed at the Buck's Stove and Range Company secured the 9-hour work day. After working the 9-hour day for 18 months, or until January 1, 1906, a notice was posted in the Polishing Department informing the men that on and after January 1st that said department would run 10 hours a day.

When the men returned to work after said date, they immediately notified the firm that they would work the 10 hours under protest, or until such time as our International Union and the Stove Founders' National Defense Association, with whom we have a National Agreement, could agree upon a settlement, and after several conferences between our International Union and said Association had been held, and being unable to arrive at a settlement, the above action was taken.

J. W. Van Cleave, President of said concern, is also President of the Citizens' Industrial Association of this city. "His sole ambition is to crush the labor unions in general." Metal Polishers' Union No. 13 has placed said firm upon the Unfair List, and their action has been endorsed by the International Union of Metal Polishers, Buffers and Platers, The Central Trades and Labor Union, and Metal Trades Council of St. Louis and vicinity.

We sincerely trust that your organization will render all the Moral assistance in your power in giving this unfair firm as much publicity as possible, also appoint committees to visit dealers

123 handling stoves and ranges of said firm, and request them to cease handling said goods, also have them write the firm a letter to that effect.

Do not file **this** circular, but appoint your committees immediately,

as a victory in this fight means a great deal to Organized Labor in general, and a blow to the Citizens' Industrial Association.

Thanking your organization in advance for this favor, we remain,
Fraternally and sincerely yours,

METAL POLISHERS', BUFFERS', AND PLATERS'
UNION, No. 13.

[Emblem of Metal Trades Council No. 1 of St. L. & V.]

P. S.—Any further information desired will be cheerfully furnished by addressing Metal Polishers', Buffers', and Platers' Union No. 13, No. 1310 Franklin Av., St. Louis, Mo."

[Emblem of Central Trades Labor U. St. L. & V.]

Q. Look at that and see whether you recognize that circular? A. I think this circular substantially the same as that issued by Metal Polishers' and Buffers' and Platers' Union No. 13.

Q. I call your attention to what appears in the June 1907 number of the Journal, on page 14,—to the following statement:

"The International office has just completed arrangements with the United Mine Workers of America, whereby they have mailed to their three thousand locals a circular regarding the Bucks stoves and ranges, this office having the circulars printed and folded, and then expressed in bulk to the National Headquarters of the United Mine

Workers, they furnishing the envelopes and addressing the same and defraying the cost of postage. This firm had been making special efforts to sell their unfair stoves in the mining districts."

Q. Do you know to what that refers? A. I have an idea what it is.

Q. Give it to us. A. It referred to some circulars that we had printed and requested them to distribute.

Q. You sent the circulars to their office as described there? A. I don't know.

Q. Who does know, Mr. Atherton? A. I can't say.

Q. You see this statement in the Journal (showing witness excerpt from Journal above quoted). Now, what is your recollection about it? A. As I said a few minutes ago, my idea is that we prepared the circulars and I believe that statement to be correct.

Q. Now, Mr. Grout, was there a resolution introduced in the Convention of the American Federation of Labor held at Minneapolis in November, 1906, being I think, the 26th annual convention of that organization, placing the Buck's Stove and Range Company on the unfair list? A. Yes sir.

Q. I call your attention to pages 726, 727, and 728 of the original record in this case, being pages 412 and 413 of the transcript of the record in this case,—to a portion of the deposition of Mr. Samuel Gompers and to a letter written to him by George Bechtold under date of January 8, 1907, and to this statement in it: "After seriously considering the grievances of other organizations and the antagonism of Mr. J. W. Van Cleave towards organized labor in general, I per-

mitted a representative of the Metal Polishers' Organization to persuade us to introduce resolution No. 5, well knowing that our organization was financially unable to successfully prosecute any such boycott. The Metal Polishers' organization, I understand, are allowed their full quota of boycotts allowed to any organization by the American Federation of Labor.

"I am satisfied in my own mind that should the Metal Polishers be victorious in their fight against the Buck's Stove & Range Company it will mean a union shop for us. Hence our anxiety to assist them in every way possible."

Q. Were you the representative of the Metal Polishers' Union that persuaded Mr. Bechtold to introduce that resolution? A. I don't think so.

Q. What other delegates were there from your organization thereon. A. Not any.

Q. Well, as a member of the Committee on Boycotts in that convention, did you join in the report of the resolution No. 45, placing The Buck's Stove and Range Company on the unfair list? A. Yes sir.

Q. And did you advocate it on the floor of the convention—its adoption? A. Yes sir.

Q. Were you a delegate from the Metal Polishers' International Union to the 27th annual convention of the American Federation of Labor held in Norfolk, Virginia, November 11th to 23rd, inclusive, 1907, and did you attend the convention as such? A. Yes sir.

Q. And were you a member of any committee of that convention? A. I believe—yes, I was a member of a committee—I don't recall just what it was?

Q. Was it the Committee on Organization of which Max Morris was Chairman? A. Yes, I was a member of that Committee.

Q. Who was your fellow delegate to that convention? A. James Dardis.

126 Q. From Newark, New Jersey? A. That is correct.

Q. I show you a copy of the official report of the proceedings of the 27th annual convention of the American Federation of Labor held at Norfolk, Virginia, November 11 to 23 inclusive, 1907, a duplicate of which has been heretofore introduced as an Exhibit in the contempt proceedings in this case, and I direct your attention to pages 121 and 122 of that exhibit, to what is known as resolution No. 49 by delegates A. B. Grout and James Dardis of the Metal Polishers Union, and ask you whether or not you introduced that resolution into that convention? A. Yes, I introduced that resolution.

Mr. DAVENPORT: I will ask the notary to insert a copy of that resolution in this deposition.

Said resolution is as follows:

"Resolution No. 49.

By Delegates A. B. Grout, James J. Dardis of the Metal Polishers, Buffers, Platers, etc.

Whereas, The Buck Stove & Range Co. of St. Louis, Mo., of which J. W. Van Cleave is president, has attempted to disrupt the Metal Polishers, Buffers, Platers, Brass Molders, Brass and Silver Molders Union of North America, and in pursuance of said object has arbitrarily abolished the nine-hour workday, which has existed in factory for over eighteen months, and instituted a ten-hour workday; and

Whereas, the said J. W. Van Cleave, the President of said Company, is also president of the National Manufacturer's Association, an organization which constitutes a small minority of manufacturers of the country, and which has declared its hostility against all labor organizations, and it was through the recommendations of the said

J. W. Van Cleave that said Manufacturers' Association has 127 undertaken to raise a fund of \$500,000,000 per year for the alleged purpose of education, but which at the present time is being used under the direction of said J. W. Van Cleave in an attempt to disrupt the labor organizations of the country especially the Metal Polishers, Buffers, Platers, Brass and Silver Workers' Union of North America, as well as the International Brotherhood of Foundry Employees, with whom his company has a dispute; and

Whereas, it has come to our knowledge that the funds of the Manufacturers' Association, are being expended under the said Van Cleave's direction for the employment of detective bureaus throughout the United States, who are now conducting a campaign of vilification and slander against the officers and members of labor organizations for the purpose of creating distrust among the entire membership and to deceive and mislead them. Therefore, be it

Resolved, That each central body affiliated with the A. F. of L. be and is hereby instructed to appoint a committee who shall conduct and manage a "campaign of education" among the membership affiliated with their central body, as well as dealers in stoves and ranges in their locality and thoroughly inform them of the entire facts of the dispute between the Metal Polishers, Buffers, Platers, Brass and Silver Workers Union of North America, the Brotherhood of Foundry Employees, also as to the attitude of J. W. Van Cleave and the Manufacturer's Association towards organized labor. Be it further

Resolved, That the said committee shall report on the first of each month to the officers of the A. F. of L. the progress of the campaign of education," together with a complete list of all dealers in their locality who are handling and selling the product of the Buck 128 Stove & Range Company. Be it further

Resolved, That all commissioned organizers of the A. F. of L. shall report on the first of each month to the officers of the A. F. of L. the progress made in "this campaign of education" by the different committees of the different central bodies in their re-

spective districts, and also render such aid to all committees as lay in their power. Be it further

Resolved, That the incoming officers of the A. F. of L. be and are hereby instructed to carry out the spirit of these resolutions and to expend such monies as may be necessary to defray the expense of any authorized committee or any other necessary expenses to make this "campaign of education" a success."

Referred to Special Committee on Buck Stove and Range Co."

Q. Do you know whether that was referred to a committee? A. Yes.

Q. To the special committee on the Buck Stove and Range Company? A. It was referred to a committee, but I don't know which one.

Q. By reference to the record can you tell us? A. I believe that is correct.

Q. You believe it was referred to the special committee on the Buck Stove and Range Company? A. Yes sir.

Q. Did you appear before that committee in advocacy of that resolution? A. Yes sir.

Q. Were you present in the session of the convention held on Monday, November 18, 1907, at 9 A. M., being the seventh day of the convention, at which the committee reported on Resolution No. 49? A. I believe I was.

Q. I call your attention to what appears on page 212 of the official report of the proceedings of that day, found on pages 129 212 and 213: as follows:

"Delegate Ryan (W. D.) for the Committee on Resolutions, reported as follows:

"The Committee recommended the adoption of Resolution No. 49 when amended to read as follows:

"Resolution No. 49.

"By Delegates A. B. Grout, James J. Dardis of the Metal Polishers, Buffers, Platers, etc.

"Whereas, The Buck Stove and Range Co. of St. Louis, Mo. of which J. W. Van Cleave is president, has attempted to disrupt the Metal Polishers, Buffers, Platers, Brass Moulders, and Brass and Silver Workers Union of North America, and in pursuance of said object has arbitrarily abolished the nine-hour workday, which has existed in factory for over eighteen months, and instituted a ten-hour work day.

"Whereas, the said J. W. Van Cleave, the president of said company, is also president of the National Manufacturers' Association an organization which constitutes a small minority of the manufacturers of the country, and which has declared its hostility against all labor organizations, and it was through the recommendations of the said J. W. Van Cleave that the said Manufacturers' Association has under-

taken to raise a fund of \$1,500,000 in 3 years for the alleged purpose of education, but which at the present time is being used under the direction of said J. W. Van Cleave in an attempt to disrupt the labor organizations of the country, especially the Metal Polishers, Buffers, Platers, Brass and Silver Workers Union of North America, as well as the International Brotherhood of Foundry Employes, with whom his company has a dispute, and,

130 "Whereas, It has come to our knowledge that the funds of the Manufacturers' Association are being expended under the said Van Cleave's direction for the employment of detective bureaus throughout the United States, who are now conducting a campaign of vilification and slander against the officers and members of labor organizations for the purpose of creating distrust among the entire membership and to deceive and mislead them. Therefore, be it

"Resolved, That each Central body affiliated with the A. F. of L. be and is hereby requested to appoint a committee who shall conduct and manage a "campaign of education" among the membership affiliated with their central body, as well as dealers in stoves and ranges in their locality and thoroughly inform them of the entire facts of the dispute between the Metal Polishers, Buffers, Platers, Brass and Silver Workers' Union of North America, the Brotherhood of Foundry Employes, also as to the attitude of J. W. Van Cleave and the Manufacturers' Association towards organized labor. Be it further

"Resolved, That the said committee shall report on the first of each month to the officers of the A. F. of L. the progress of the "campaign of education," together with a complete list of all dealers in their locality who are handling and selling the product of the Buck Stove and Range Company. Be it further

"Resolved, That all Commissioned organizers of the A. F. of L. shall report on the first of each month to the officers of the A. F. of L. the progress made in "this campaign of education" by the different committees of the different central bodies in their respective districts, and also render such aid to all committees as lay in their power."

Then follows:

"Motion was made and seconded that the report of the Committee be concurred in. The question was discussed by Delegate Grout and Vice-President Duncan. The motion to concur in the report
131 of the Committee was carried."

Q. Do you remember that incident? A. Yes sir.

Q. Did you advocate the adoption of that resolution? A. Not at that time; no sir. I was looking for information; I was asking information during that discussion.

Q. The discussion consisted in your asking for information? A. Yes sir.

Q. The record then proceeds: "The motion to concur in the report of the Committee was carried." Do you remember that it was carried? A. Yes sir.

Q. Did you vote for it? A. Yes sir.

Q. I call your attention to what appears on pages 213 and 214

and 215 of the Exhibit referred to, being the official report of the proceedings of the American Federation of Labor held at Norfolk, Virginia, November 11 to 23, inclusive, 1907, and to what appears thereon, as follows: "Delegate Duffy (Frank), for the Special Committee appointed to consider the question of the Buck Stove and Range Company, announced that a report from that committee was ready.

"Delegate WILSON (JAMES): I move that that report be made a special order of business for 2:30 o'clock this afternoon.

"After a short discussion, the motion was withdrawn, and Delegate Ramsay, for the Special Committee read the following: "To the Officers and Delegates of the Twenty-seventh Annual Convention of the American Federation of Labor:

"Your special committee, to which was referred the subject matter contained in the reports of President Gompers and of the Executive Council relative to the suit brought by J. W. Van Cleave, of the Buck Stove and Range Company, against the American Fed-
132 eration of Labor and its officers, and all matters in connection therewith, begs leave to report as follows:

"We have given the reports, the evidence and all other matters in connection with the suit, our deliberate consideration. There is not the least doubt in our minds but that the suit in question, the scurrilous and scandalous campaign of villification against the officers of our great movement, the rampant antagonism of the worst elements of the capitalist class as manifested in Los Angeles and elsewhere, are all of them of a kind, leading up to and the result of the creation of the million and a half dollar War Fund by the Manufacturers' National Association—raised in the effort to weaken and ultimately destroy the effectiveness of our great movement, our movement which protects and advances the interests of the toiling masses of our co-ntry against the greed and aggression of those who seek to profit if the toilers were rendered defenseless.

"We have read with the deepest interest the fundamental principles involved in the Van Cleave suit as set forth in President Gompers' report, both under the caption dealing specifically with the suit and also in that part of the report dealing with the "injunction abuse." We venture to assert that in no document of a similar kind or in any treatise upon the subject have constitutional guarantees and inherent principles been set forth more clearly, logically and truly than in the President's report.

"There is involved in the Van Cleave Buck Stove and Range Company suit against the A. F. of L. and its officers fundamental rights which strike at the very root of free institutions. The freedom of speech and the freedom of the press are involved; and as President Gompers so ably and amply sets forth, there are involved the right of man's ownership of himself, his ownership of his labor power, of the wages he receives in return for the exchange of
133 his labor, and the use to which these wages may be devoted.

"Freedom was never taken from a people by one attack. The process was and is gradual. It is the denial of the rights of one portion of the people at one time, the infringement upon the liberties

of another portion at another time, that step by step make inroads into the citadel of freedom and undermine the entire structure.

"So with the injunctive process as typified in the present suit. The attempt to deny to the men of labor the right of the freedom of speech and of the press should not only arouse the resentment of the great masses of our people, but it should appeal strongly to the newspapers and magazines of our time.

"The freedom of the press implies not merely that one shall print and say the things that please. For such a purpose guarantees are entirely superfluous. The constitutional guarantees of the freedom of the press were designed to protect the dissidents, the opponents, in their right not only to protest but to make public that protest in speech and print, in an appeal to the people against existing power and conditions. In it are involved the guarantee of the right to say the things that displease, man being responsible for his utterances and never to be enjoined or prohibited from expressing himself.

"The blow in this instance against labor and its official magazine the American Federationist, may tomorrow in some form be directed against another publication, and though labor may be called upon to bear the brunt and make the contest in the present proceedings, we urge upon the press of our country the consideration
134 of the principle of free speech and free press involved in these proceedings.

"If the rights and the interests of the people are to be protected and defended against modern greed, avarice, chicanery and unlawful power, we can not, and we will not, surrender or yield the exercise of the liberty of speech, the liberty of the press.

"We protest against and repudiate the theory, either expressed or implied, that there exists any direct or indirect property right in workmen other than by the workmen themselves, and in defense of our position upon these great fundamental principles made sacred by history and traditions, we pledge our united efforts.

"We commend the action thus far taken by the President and the Executive Council, in taking the necessary legal steps to maintain our Constitutional rights. Your committee believes it is of vital importance that this suit be fought to a successful termination, and, therefore, to raise an available fund for that purpose we recommend that this convention authorize the President and the Executive Council to issue a special assessment of one cent per capita, and that the President and the Executive Council aforesaid be further authorized to make such other and further assessments, should occasion require, as they in their judgment may deem necessary.

FRANK DUFFY, *Chairman*.

D. G. RAMSAY, *Secretary*.

JOHN P. FREY.

S. L. LANDERS.

JOHN T. SMITH.

JOHN A. MOFFITT.

EMMETT T. FLOOD.

J. G. NOYES.

GEORGE FINGER.

W. D. MAHON.

JERE L. SULLIVAN.

JOHN FITZPATRICK."

Delegate RAMSAY: I move the adoption of the report."

135 "The motion was seconded and carried by unanimous vote of the convention."

Q. Do you remember the incident? A. Yes sir.

Q. And that such a report was made? A. I believe it was.

Q. Did you vote for it? A. Yes sir.

Q. I call your attention to page 215 of the same Exhibit, and to what appears thereon, which I will now read to you:

"Delegate Ramsay for the Special Committee, read the following supplementary report:

"To the Officers and Delegates of the Twenty-seventh Annual Convention of the American Federation of Labor:

"Your special committee to which was referred the subject matter of the suit of the Buck Stove and Range Company, begs leave to make the following supplemental report:

"Referring to resolution No. 49, hereto attached, by Delegates A. B. Grout and James J. Dardis, of the Metal Polishers, Buffers and Platers' Union, relative to a 'campaign of education' we fully agree with the purpose of the resolution, but recommend that the details and manner of carrying out the spirit and object of the resolution be left in the hands of the President and Executive Council.

"Respectfully submitted,

FRANK DUFFY, *Chairman*,

D. G. RAMSAY,

JOHN P. FREY,

S. L. LANDERS,

JOHN A. MOFFITT,

JOHN T. SMITH,

JOHN FITZPATRICK,

EMMET T. FLOOD,

GEORGE FINGER,

J. G. NOYES,

W. D. MAHON,

JERE L. SULLIVAN."

"On motion the report of the committee was concurred in."

Q. Do you recall that? A. Yes sir.

136 Q. Did you vote for it? A. Yes sir.

Q. Did you insert in the October number 1907 of the Journal, the official organ of the Metal Polishers, etc. Union, a statement over your signature relative to the suit brought by the Buck's Stove and Range Company against the American Federation of Labor, wherein an injunction was prayed for. A. I don't recall whether I did or not, but if it appears in our official Journal over my signature, I did.

Q. I direct your attention to the following extract therefrom:

"Whether the injunction asked for is granted or not, you are requested to continue to inform hardware dealers that the Buck's Stove and Range Company is unfair, and that you will not buy

them. No injunction can prevent you from expressing the right of free speech, and especially when you speak the truth. Inform every one you come in contact with of your attitude.

"With the publicity Mr. Van Cleave has so kindly assisted us in securing we may be able to once more afford him that "great pleasure" and this time in less than two years."

(Signed)

A. B. GROUT."

Q. Do you recall that? A. Yes sir.

Q. At what time did you hold your annual convention in 1907?

A. In August in this city—Cincinnati.

Q. And at that convention, did the committee on boycotts adopt a recommendation for the purpose of making the declaration of unfairness more effective? A. I believe I did.

Q. And was that action published in the October number 1907 of the Journal? A. The Journal will speak for itself.

Q. I call your attention to what appears at the bottom of the first column and the top of the second column on page 6 of that Journal:

"By adopting the recommendation of the Committee on Boycotts it is now compulsory for the locals who have their boycotts endorsed by the International Union, to make a report at least every three months of the efforts being made to make the declaration of unfairness effective. This means a smaller unfair list. If the locals are not enough interested in their own affairs to assist the International Organization in keeping up an aggressive campaign, in co-operating in advertising the unfriendly attitude of the firms, the Executive Board will remove the firm from the unfair list. If the members become active, the firms will be compelled to be fair. In either event it means a smaller unfair list.

(Signed)

A. B. GROUT."

Q. Do you recall that? A. Yes sir.

Q. Mr. Grout, do you have anything to do officially with the publication of the Journal? A. No sir.

Q. Is that conducted by Mr. Atherton? A. Yes sir.

Q. He is the editor? A. Yes sir.

Q. Is Mr. Atherton the Secretary-Treasurer of the organization? A. Yes sir.

Q. Is he a member, or do you have a Board of Management? A. We have what is termed our Executive Board.

Q. Is the Journal published by the Executive Board? A. No sir.

Q. Who publishes it and how is it published? A. The General Secretary is the editor and publisher.

Q. How is he selected? Is it part of his duty as Secretary to edit the Journal? A. I believe so.

Q. Does the Executive Board have any supervision over his conduct of the magazine? A. No; only in case of appeals.

Q. I will ask you a general question: Whether whatever has appeared in the Journal—the official Journal of the Metal Polishers etc. International Union, over your signature, you are the author of, and responsible for? A. Yes sir.

138 Cross-examination of Witness A. B. GROUT.

By Mr. JACKSON H. RALSTON:

Q. Mr. Grout, what control has the American Federation of Labor, through its officers over the Metal Polishers Journal. A. Not any.

Q. Have either Mr. Gompers, Mr. Mitchell or Mr. Morrison dictated what should appear in its columns? A. No sir.

Q. Has the American Federation of Labor any financial interest in the Metal Polishers Journal? A. No sir.

Q. Who conducts it? A. Our General Secretary-Treasurer is editor of it.

Q. Mr. Atherton? A. Yes.

Q. Can you say whether or not Mr. Atherton has published in its columns since the 17th day of December last, anything dictated in any manner by Messrs. Gompers, Mitchell, Morrison, or by any other of the officers of the American Federation of Labor? A. I can't say.

Q. Has it to your knowledge? A. It has not to my knowledge.

Q. Mr. Grout, you understand, do you not, the relationship which exists between Mr. Van Cleave and the Buck's Stove and Range Company? A. Yes sir.

Q. Do you or not understand that the present attacks upon the officers of the American Federation of Labor are part and parcel of a general line of policy pursued by certain organizations of manufacturers?

Mr. DAVENPORT: To this familiar line of questions I want to interpose my familiar objection. I object to this line of testimony as immaterial, irrelevant, incompetent, as hearsay, as matter for which there has been no foundation laid in the pleadings, 139 and as improper, and I give notice that I shall move to strike the same from the record, and ask that the costs of the matter be imposed upon the respondents.

A. I understand that they are.

Q. Do you know what these organizations are?

Mr. DAVENPORT: I suppose it is unnecessary, but not improper for me to suggest to the witness that he must testify as to his own knowledge of such things.

A. Yes sir. The Citizens' Industrial Association is one of them.

Q. What other? A. That is the only one I know of to my knowledge, but I know of hearsay evidence to the effect that most all manufacturers' associations.

Q. Do you know the National Association of Manufacturers? A. Yes sir.

Q. Do you know who its President is? A. James W. Van Cleave.

Q. Do you know the officers of the Citizens Industrial Association? A. Yes sir. The President and Vice President?

Q. Yes? A. I believe it is Mr. Post, President, and Jas. W. Van Cleave, Vice President.

Q. Do these associations in addition to direct attacks being made upon the defendants in this case undertake to dictate the political policy of any of the parties in the country? A. I believe they do as regards labor.

Q. Can you tell what they have done in that line? A. They have visited the Republican Convention held in Chicago last June and tried to influence the convention against favorable consideration of planks in the platform giving the working classes of this country a fair deal.

140 Q. Do you know whether they succeeded at the Republican Convention to their satisfaction? A. I believe they did.

Q. Mr. Grout, can you state whether they controlled legislation pending in Congress last fall affecting labor organizations, by means of which labor organizations were seeking to be differentiated from other organizations—from organizations of capital with which they had been allied, in the Supreme Court interpretation of the Sherman Anti-Trust Act? A. I know that it was claimed they influenced legislation in that respect, and believe that they did.

Q. I will ask you whether the President of the Citizens' Industrial Alliance is now publishing in the various newspapers of the country, attacks on one of the candidates for the Presidency of the United States, because his candidacy appeals to labor voters, or is considered to do it. A. I have seen such published reports.

Q. Do you know, Mr. Grout, what organization the Journal called "The American Industries" represents? A. It represents the American National Association of Manufacturers.

Q. Do you know the manner in which Mr. Van Cleave, its President, characterizes those who do not agree with his views? A. He designates them as demagogues and men with no souls and no bodies.

Q. He regards them as the opposite of safe and law-abiding, does he not? A. Yes sir.

Mr. DAVENPORT: In order to be sure of having been sufficiently specific in my objection, I repeat that I shall move to have this quotation from the American Industries stricken from the record, and also testimony of Mr. Grout relative thereto, for the reasons just before stated by me.

A. B. GROUT.

Sworn to before me and subscribed in my presence this
141 October 23, 1907.

[SEAL.]

WM. JEROME KUERTZ,
Notary Public, Hamilton County, Ohio.

CHARLES R. ATHERTON, a witness of lawful age, being produced, sworn and examined, testified as follows, on the part of the plaintiff:

Direct examination.

By Mr. DAVENPORT:

Q. What is your full name Mr. Atherton? A. Charles R. Atherton.

Q. Where do you reside? A. Cincinnati, Ohio.

Q. Where is your place of business? A. Neave Building, Cincinnati.

Q. Are you connected with the Metal Polishers, Buffers, Platers, Brass Molders and Brass and Silver Workers International Union of North America? A. Yes sir.

Q. In what way? A. I am General Secretary at the present time.

Q. Does that organization publish a journal? A. Yes sir.

Q. What is it called? A. "Our Journal."

Q. How often does it appear? A. Monthly.

Q. How long has it been published? A. 11 years. There is some slight change in the name. It used to be "The Journal," but in order to get it in as second-class matter, we changed it to "Our Journal."

Q. As editor, do you have control over what appears in the columns of that journal? A. Yes sir.

Q. And did you during the years 1906, 1907 and 1908? A. Yes sir.

Q. And are you responsible for what appears therein? A. Well, I presume I am and I presume I am not. It is contributed—most of the stuff.

Q. But it does not appear without your publishing it. A. No sir.

142 Q. Whatever appears in the columns are inserted by your authority? A. Yes sir.

Q. For a number of years has there appeared on the second page of the cover a list of firms? A. Yes sir.

Q. And has that list been inserted by your authority? A. Yes sir.

Q. And is that a list of those concerns who have been by your organization the Metal Polishers etc. International Union been declared unfair? A. Some of them undoubtedly were. They have been published when we had strikes on without being submitted to the organization.

Q. Well, in those numbers wherein the name of the Buck Stove and Range Company has appeared on that list, have you caused it to be inserted in the list and that list to be published containing that name? A. Yes sir.

Q. Is your organization affiliated with the American Federation of Labor? A. Yes sir.

Q. Has it a charter from that body? A. Yes sir.

Q. I show you pages 442, 443 and 444 of the original record in this case, being pages 257 and 258 of the transcript of the record in the Court of Appeals, Exhibit V, which reads as follows:

EXHIBIT V.

American Federation of Labor.

Executive Council.

President, Samuel Gompers.

[SEAL.] Secretary, Frank Morrison.

Treasurer, Jno. P. Lennon, Bloomington, Ill.

First Vice-President, James Duncan, Hancock Bldg., Quincy, Mass.

143 Second Vice-President, John Mitchell.

Third Vice-President, James O'Connell, 402-407 McGill Bldg., Washington, D. C.

Fourth Vice-President, Max Morris, P. O. Box 1581, Denver, Colo.

Fifth Vice-President, D. A. Hayes, 930 Witherspoon Bldg., Philadelphia, Pa.

Sixth Vice-President, Daniel J. Keefe, 406-407 Elk's Temple Bldg., Detroit, Mich.

Seventh Vice-President, Wm. D. Huber, State Life Bldg., Indianapolis, Ind.

Eighth Vice-President, Jos. V. Valentine, Commercial Tribune Bldg., Cincinnati, Ohio.

Long Distance Telephone, Main 3871-2.

Cable Address, "Ael."

423-425 F St. N. W.,

WASHINGTON, D. C., November 26, 1907.

To all Organized Labor and Friends:

You undoubtedly are aware of the fact that the interest of the Foundry Employés and Metal Polishers have been greatly injured on account of the hostile action of the Buck's Stove and Range Company of St. Louis, of which Mr. Van Cleave is president and he is also president of the National Association of Manufacturers.

As you are well aware, so inimical to the welfare of labor was the Buck's Stove and Range Company's management that the organization concerned felt obliged to declare the product of that company unfair. The workmen's organization appealed to the American Federation of Labor to endorse its action. After due investigation that endorsement was given and is still further affirmed. The circumstances leading to this action are so widely known that they need not be here recounted.

Mr. Van Cleave, for the Buck's Stove and Range Company brought suit against the American Federation of Labor and its Executive Council and has petitioned the court for an injunction to prohibit the American Federation of Labor from in any way advising organized labor and its friends of the fact that the Bucks' Stove and Range Company is unfair to its employés and for

that reason its name is published upon the American Federation of Labor "We don't Patronize list."

The court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove and Range Company, upon the "We don't Patronize List." Should we be enjoined by the court from doing so, the merits of the case will not be altered, nor can any court decision take from any man the right to bestow his patronage where he pleases.

Mr. Van Cleave, president of the Buck's Stove and Range Company, also president of the National Association of Manufacturers is raising a war fund of one million and a half dollars to crush organized labor. You already know the attempts that have been made with a part of that money to assassinate the characters of the active men in the labor movement to corrupt them and buy them over, much of which was exposed at the recent Norfolk convention of the American Federation of Labor, and more of which will be published in a pamphlet about to be issued.

Bear in mind that you have a right to decide how your money shall be expended.

You may or may not buy the products of the Buck's Stove and Range Company.

There is no law or edict of court that can compel you to buy a Buck stove or range.

You cannot be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove and Range Company products of its unfair attitude towards its employees and ask them to give their sympathy and aid in influencing the Buck's Stove and Range Company to deal fairly with its employees and come to an honorable agreement with the union primarily at interest.

It would be well for you as central bodies, local unions and individual members of organized labor and sympathizers to call on business men in your respective localities, urge their sympathetic coöperation and ask them to write to the Buck's Stove and Range Company of St. Louis, urging it to make an honorable adjustment of its relations with organized labor.

Act energetically and at once. Report the result of your effort to the undersigned.

SAM'L GOMPERS,

President American Federation of Labor.

Attest:

FRANK MORRISON, *Secretary.*

"By order of the Executive Council of the American Federation of Labor."

Q. I will ask you whether or not you received that circular? A. I don't recall.

Q. Do you know whether or not you caused it to be published in the official journal of the Metal Polishers' Union of which you are editor? A. I don't recall if that appeared in the journal or not.

Q. If it did so appear, did you cause it to be published? A. Yes sir.

Q. Mr. Atherton, in the number of your official journal for June 1907, on page 14 at the bottom of the first column appears the following: "The International Office has just completed arrangements with the United Mine Workers of America, whereby they have mailed to their three thousand locals a circular regarding the 146 Bucks stoves and ranges, this office having the circulars printed and folded, and then expressed in bulk to the National Headquarters of the United Mine Workers, they furnishing the envelopes and addressing the same and defraying the cost of postage. This firm had been making special efforts to sell their unfair stoves in the mining districts."

Q. Do you know to what that refers? A. That refers to circular letters.

Q. That were sent out by your organization, that is printed by your organization and then sent to the United Mine Workers in bulk? A. Yes sir.

Q. Is that the circular I called to Mr. Grout's attention a little while ago? A. I don't know.

Q. What is your impression? A. I don't remember what you showed Mr. Grout.

Q. Weren't you listening? A. I was listening but I didn't read it.

Mr. DAVENPORT: I ask that Exhibit F, found on pages 213 and 214 of the original record in this case, being pages 143 and 144 of the transcript of the record in the Court of Appeals, (which Exhibit F I have shown Mr. Grout)—I ask that said Exhibit be inserted as part of my question, so as to make it specific.

Mr. Davenport thereupon handed Mr. Atherton, the witness, said Exhibit F., who, after looking at the same, said:

WITNESS: I think it was a circular similar to this that we sent out. The wording may be the same—but I am not positive about it, though.

147 Cross-examination of witness CHARLES R. ATHERTON.

By Mr. RALSTON:

Q. Mr. Atherton, how long have you been editor of the Metal Polishers Journal? A. From January 3, 1906, to the present time—two years nine and a half months.

Q. Under whose direction, do you edit? A. I suppose it is under the direction of the organization. I have never received any instructions or directions. I have simply published, managed and sent it out.

Q. Which organization? A. The Metal Polishers etc. International Union of North America.

Q. In other words, you have complete editorial control. A. Yes.

Q. It is, however, looked upon as the representative organ of the Metal Polishers Union? A. Yes sir.

Q. Is it an organ, in any sense, of the American Federation of Labor? A. No sir.

Q. Do you receive any instructions from the Federation of Labor as to your line of conduct? A. No sir.

Q. Have either Mr. Gompers or Mr. Mitchell or Mr. Morrison instructed you, or advised you as to what you should put in the journal particularly since the 17th of December last? A. No.

Q. Have any of the other general officers of the Federation advised with you or directed you as to the conduct of the journal since that time? A. No.

Q. Are you in any way employed by the American Federation of Labor? A. No.

148 Q. Is there any conflict existing at the present time between the American Federation of Labor and bodies known as the National Association of Manufacturers, and the Citizens' Industrial Association, sometimes called Alliance.

MR. DAVENPORT: To this line of testimony I specifically object as being immaterial, irrelevant, incompetent, hearsay, as matter for which no foundation has been laid in the pleadings, and I shall ask the court to strike the same from the record and put the costs of the matter upon the respondents.

A. I consider that there is.

Q. State whether or not the manufacturers Association and the Citizens' Alliance are engaged at present time in an attempt to disrupt and destroy, if they may, the American Federation of Labor.

MR. DAVENPORT: From your own knowledge, of course.

A. I believe from what I have read in their own magazines that there is.

Q. Will you state, please, the connection, if any, between Mr. Van Cleave, President of the Buck's Stove and Range Company, and the other organizations to which I refer? A. Mr. Van Cleave, President of the Buck's Stove and Range Company is also President of the National Manufacturers Association—I don't know whether that name is right—National Association of Manufacturers—and if my memory serves me right, Vice President of this Industrial Alliance.

Q. State whether these organizations, and particularly Mr. Jas. W. Van Cleave and Mr. C. W. Post have attempted to dictate against labor organizations the legislation of Congress? A. Yes sir.

Q. How recently have they done so. A. I believe in the last session of Congress.

149 Q. Do you know whether they succeeded? A. We believe they were very successful.

Q. Do you know whether their representatives appeared before Congressional committees for that purpose? A. I have been informed through various sources, newspapers, and their magazines and organs to that effect.

Q. Mr. Atherton, can you state whether they have also sought to dictate the platforms of political parties, so that they might be antagonistic to labor organizations? A. Yes.

Q. What and how? A. At the recent Republican Convention in Chicago, in protesting against and in having eliminated certain planks which were believed to be for the benefit of organized labor.

Q. Have they accepted and ratified so far as in their power to ratify the action of the Republican Convention? A. Yes sir.

Q. Has Mr. Van Cleave appeared in the papers in numerous appeals to the public to support the Republican ticket, because of its antagonistic attitude toward labor organizations? A. Yes.

Q. Can you state in what way he has appealed to the public to that end? A. By circular letters or pamphlets and by publications in the newspapers and in the American Industries, possibly many others; these three I know.

Q. Has Mr. C. W. Post assumed the same attitude? A. Yes. I don't know about Post's circular letters or the Industries, but he has used the newspapers to that effect.

Q. Has he used the newspapers of this state? A. Yes.

Q. Do you know if he and Mr. Van Cleave have denounced in their publications the officers of the Federation of Labor as
150 demagogues and tyrants and assassins? A. Yes sir. Stronger than that, if possible.

Q. Do you know if Mr. Post has taken that attitude toward them within the last few days? A. Yes sir.

Q. Do you know that for that purpose he has falsified the facts and represented the Federation of Labor as having been concerned in acts of violence which Mr. Post attributes to the Federation in connection with the miners' strikes in Colorado? A. Yes.

Q. Even although those concerned in these strikes were not members of the American Federation of Labor? A. Yes sir.

Q. Has Mr. Van Cleave indulged in like misrepresentations of the character and actions of the officers of the American Federation of Labor? A. In connection with the Western Miners Strikes?

Q. No, not in that connection, but generally? A. Yes, generally.

Q. Do you know, whether, based upon such misrepresentations he has appealed to the public to vote for the candidates for one political party as against another? A. Yes.

Q. Mr. Atherton, are you familiar with recent English legislation with regard to Trade Unions? A. I have read over, but am not familiar enough to testify.

Q. Can you state whether the Federation of Labor has asked from Congress any more radical legislation than that which Parliament has granted in England? A. In my opinion from reading it, not so radical.

Q. Can you state, Mr. Atherton, whether the National Association of Manufacturers and the Citizens Alliance have allied themselves against the passage of child labor laws and other similar
151 laws advocated by trade unions and designed to bring about the social betterment of the community? A. They have.

Q. Do you know whether the National Association of Manufacturers has generally placed itself in opposition to remedial social legislation? A. I consider their actions to that effect.

Mr. DAVENPORT: To the foregoing testimony of the witness in answer to the questions propounded by Mr. Ralston relative to the attitude of Mr. Post, the Citizens Industrial Alliance and the National Association of Manufacturers, I interpose special objection for the reason that the same is immaterial, incompetent, irrelevant, hearsay, not proper cross-examination, and matter for which no foundation has been laid in the pleadings, and I give notice that I shall ask that the same be stricken from the record, and the costs of the matter put on the respondents.

CHAS. R. ATHERTON, *Witness.*

Sworn to before me and subscribed in my presence this 23rd day of October, A. D. 1908.

[SEAL.]

WM. JEROME KUERTZ,
Notary Public, Hamilton County, Ohio.

152

Filed October 28, 1908.

In the Supreme Court of the District of Columbia.

No. 27305. Eq.

THE BUCK'S STOVE & RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

Notice.

Messrs. Ralston & Siddons and Alton B. Parker, Solicitors for Respondents.

GENTLEMEN: Please take notice that on Saturday, the 24th day of October, A. D. 1908, at 10 o'clock A. M., and from day to day thereafter until the same can be completed, the depositions *de bene esse* before Alberti C. Metcalf, Notary Public, at the office of Johnson & Metcalf, Room 51, Court House, Indianapolis, Marion County, Indiana, will be taken of the following witnesses on behalf of petitioner, all of whom are non-residents of the District of Columbia: W. D. Ryan, State Life Building, Indianapolis, Indiana; Mae B. Gray, 1516 Sheldon St., Indianapolis, Indiana; Helen Lamb, 1510 Rosaline St., Indianapolis, Ind.

DANIEL DAVENPORT,
Solicitors for Petitioner.

Service of the above notice accepted this 19th day of October, A. D., 1908.

RALSTON & SIDDONS,
Solicitors for Respondents.

153 In the Supreme Court of the District of Columbia

No. 27305. Equity.

THE BUCK'S STOVE & RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

Notice.

Messrs. Ralston & Siddons and Alton B. Parker, Solicitors for Respondents.

GENTLEMEN: Please take notice that on Saturday, the 24th day of October, A. D. 1908, at ten o'clock A. M., and from day to day thereafter until the same can be completed, the depositions *de bene esse* before Alberti C. Metcalf, Notary Public, at the office of Johnson & Metcalf, Room 51, Court House, Indianapolis, Marion County, Indiana, will be taken of the following witnesses, on behalf of petitioner, in addition to the witnesses of the taking of whose depositions you have heretofore been given notice, all of whom are non-residents of the District of Columbia: Ernest A. Kupper, whose address is Mt. Vernon, Illinois; Oliver P. Perkins, whose address is Lebanon, Indiana, and Jonas T. Templeton, whose address is 5459 Vernon Avenue, St. Louis, Missouri.

DANIEL DAVENPORT,

J. J. DARLINGTON,

Solicitors for Petitioner.

Service of the above notice accepted, this 21st day of October, A. D. 1908.

RALSTON & SIDDONSON,

Solicitors for Respondents.

154 In the Supreme Court of the District of Columbia.

No. 27305. In Equity.

THE BUCK'S STOVE & RANGE CO.

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

I, Alberti C. Metcalf, a Notary Public in and for the county of Marion and State of Indiana, having my office in the Marion County Court House in the city of Indianapolis, in said state do hereby certify, That, pursuant to the notices to that end hereto annexed, I proceeded, on the 24th day of October, A. D. 1908, at the hour and place in said notices named, and in the presence of the counsel for the respective parties, Daniel Davenport, Esq., appearing for the complainant, and Jackson H. Ralston, Esq., for the defendants, to

take the following depositions of the witnesses W. D. Ryan, Ernest A. Kupper, Mae D. Gray and Jones T. Templeton, produced on behalf of the complainant, each of said witnesses being by me first duly sworn according to law, and thereupon being orally examined, upon the interrogatories propounded to them by the counsel for the said parties respectively, as set forth, the counsel for the parties having first consented that the testimony so taken before me should be taken down stenographically and reduced to typewriting.

155 I further certify that said W. D. Ryan read over the testimony given by him and signed by him in my presence, and the counsel for the respective parties having waived the reading by the other witnesses of their depositions respectively given by them, and authorize me to attach their signatures thereto for them.

And I further certify that my fees for taking said testimony are \$87.50 which have been paid by the complainant; that I am not of counsel for either party to the cause or interested in the event of the suit; that I am now about to close the same under my official seal as notary public, and, being unable to return the same in person to the Supreme Court of the District of Columbia, I shall now place the said depositions in a sealed envelope directed to the clerk of the Supreme Court of the District of Columbia, Washington, D. C., and deposit the same with the postage prepaid in the United States mails.

Witness my hand and seal this 24th day of October, A. D. 1908.

[SEAL.]

ALBERTI C. METCALF,

Notary Public of Marion County, Indiana.

My commission expires March 14, 1912.

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Stipulation.

It is stipulated by and between counsel for the plaintiff and counsel for the defendants that either side may at the hearing rely upon any objection which they may see fit to adduce relative to the competency or materiality of the testimony, or particular questions as if such objections had been specifically to each question asked.

W. D. RYAN, a witness of lawful age, being produced, sworn and examined, testified as follows, on the part of the plaintiff:

Direct examination.

Questions by DANIEL DAVENPORT, Esq.:

1 Q. State your name? A. W. D. Ryan.

2 Q. Your first name? A. William.

3 Q. Where do you reside? A. Springfield, Illinois.

4 Q. Where is your place of business? A. I am International Secretary-Treasurer of the United Mine Workers of America,
157 with headquarters in this city.

5 Q. In what building? A. State Life Building.

6 Q. How long have you been connected with the United Mine Workers of America? A. Since February. From February 1897

until the 1st of last April I was Secretary-Treasurer of the Illinois District known as District 12, since the first of last April I have been National Secretary-Treasurer.

7 Q. Does District No. 12 comprise all the locals in the State of Illinois? A. Yes sir.

8 Q. Can you tell us Mr. Ryan approximately the number of locals of the United Mine Workers of America in North America? A. I could not say exactly, but there is in the neighborhood of twenty-seven or twenty-eight hundred local unions.

9 Q. Can you state approximately the present membership of the United Mine Workers of America? A. About Two Hundred Sixty Thousand paid up members at this time.

10 Q. Mr. Ryan were you a delegate to the Convention of the American Federation of Labor held at Minneapolis in November of 1906? A. I was.

11 Q. Representing what organization? A. United Mine Workers of America. I might state Mr. Davenport that there were seven delegates.

12 Q. I will come to that. A. I did not want to leave the impression that I was the only delegate.

13 Q. Did you attend the sessions of that convention held in Minneapolis in November of 1906? A. Yes sir.

14 Q. Were you a delegate to the twenty-seventh annual convention of the American Federation of Labor held at Norfolk, Va., November 11th to 23rd inclusive, 1907? A. Yes sir.

15 Q. Did you attend the sessions of that convention? A. I did.

16 Q. Were you a delegate from the United Mine Workers of America? A. Yes sir.

17 Q. Will you state whether or not the United Mine Workers of America is affiliated to the American Federation of Labor. A. It is.

18 Q. As a charter member of that organization? A. As an affiliated body.

19 Q. It has a charter? A. Yes sir.

20 Q. At the convention held at Norfolk in November of 1907 did you serve upon any committee? A. I did.

21 Q. On what committee? A. Committee of Resolutions.

22 Q. How was that committee appointed? A. By the President of the Convention.

23 Q. He is also the President of the American Federation of Labor? A. Yes sir.

24 Q. He is President of convention by virtue of his position as President of the American Federation of Labor? A. Yes sir.

25 Q. Who was that President? A. At Norfolk.

26 Q. Yes. A. Samuel Gompers.

27 Q. Do you now recall the names of the other members of that committee on Resolutions? A. Not all of them.

28 Q. I show you a copy of the official report of the proceedings of the twenty-seventh annual convention of the A. F. L. held at Norfolk, Va., November 11th to 23rd inclusive, 1907, and to page 73 and to the names mentioned therein as Com-

mittee on Resolutions and ask you if you recollect all of them James Duncan, W. D. Ryan, D. D. Muleahy, T. N. Guerin, W. L. A. Johnson, Edw. Hirsch, George R. French, John O'Neil, T. V. O'Connor, J. T. Wilson, Edw. W. Potter, Jerome Jones, Lee M. Hart, John Gorman. Were these gentlemen all delegates to the Convention?

A. Yes sir.

29 Q. Is James Duncan one of the Vice-Presidents of the American Federation of Labor? A. First Vice-President of the American Federation of Labor.

30 Q. Do you know whether he is one of the respondents in this suit? A. I do not know. I say I do not know for I have no information in connection with that matter except newspaper reports.

31 Q. He is one of the executive council of the American Federation of Labor? A. Yes sir.

161 32 Q. Did you sit with that Committee? A. I did.

33 Q. Did you, as a member of that Committee, for the Committee on Resolutions, report Resolution known as Resolution No. 49 and which reads as follows:

"By Delegates A. B. Grout, James J. Dardis, of the Metal Polishers, Buffers, Platers, etc.

Whereas, The Buck Stove and Range Co., of St. Louis, Mo., of which J. W. Van Cleave is President, has attempted to disrupt the Metal Polishers, Buffers, Platers, Brass Moulders, Brass and Silver Moulders Union of North America, and in pursuance of said object has arbitrarily abolished the nine hour workday, which has existed in factories for over eighteen months and instituted a ten-hour workday.

Whereas, The said J. W. Van Cleave, the president of said Company, is also president of the National Manufacturers-Association, an organization which constitutes a small minority of the manufacturers of the country, and which has declared its hostility against all labor organizations, and it was through the recommendations of the said J. W. Van Cleave that the said Manufacturers-Association has undertaken to raise a fund of \$1,500,000 in three years for the al-

162 leged purpose of education, but which at the present time is being used under the direction of said J. W. Van Cleave in an attempt to disrupt the labor organizations of the country, especially the Metal Polishers, Buffers, Platers, Brass & Silver Workers' Union of North America, as well as the International Brotherhood of Foundry Employés with whom his Company has a dispute, and

Whereas, It has come to our knowledge that the funds of the Manufacturers-Association are being expended under the said Van Cleave's direction for the employment of detective bureaus throughout the United States, who are now conducting a campaign of villification and slander against the officers and members of labor organizations for the purpose of creating distrust among the entire membership and to deceive and mislead them. Therefore, be it

Resolved, That each central body affiliated with the A. F. of L. be and is hereby requested to appoint a committee who shall conduct and manage a "campaign of education" among the membership

affiliated with their central body, as well as dealers in stoves and ranges in their locality and thoroughly inform them of the entire facts of the dispute between the Metal Polishers, Buffers, 163 Platers, Brass & Silver Workers' Union of North America, The Brotherhood of Foundry employes also as to the attitude of J. W. Van Cleave and the Manufacturers' Association towards organized labor. Be it further

Resolved, That the said committee shall report on the first of each month to the officers of the A. F. of L. the progress of the "campaign of education," together with a complete list of all dealers in their locality who are handling and selling the product of the Buck Stove and Range Co. Be it further

Resolved, That all commissioned organizers of the A. F. of L. shall report on the first of each month to the officers of the A. F. of L. the progress made in "this campaign of education" by the different committees of the different central bodies in their respective districts, and also render such aid to all committees as lay in their power.

A motion was made and seconded that the report of the Committee be concurred in.

The question was discussed by Delegate Grout and Vice-President Duncan.

The motion to concur in the report of the Committee was 164 carried."

A. I believe I am safe in making the statement that as secretary of that committee, I reported to the convention all resolutions submitted by that committee.

34 Q. Are you able to state whether or not, as recited there, on page 212, which reads as follows: "A motion was made a- seconded that the report of the committee be concurred in.

The question was discussed by Delegate Grout and Vice-President Duncan. The motion to concur in the report of the committee was carried."

Are you able to state whether or not that action was taken as recited there? Q. Yes.

35 Q. It was taken? A. Yes sir.

36 Q. By the convention? A. Yes sir.

37 Q. I call your attention to what appears in the report of the proceedings of the same convention, on page 213, of the official report of the proceedings of the American Federation of Labor that has already been filed as an exhibit in this case:

165 "Delegate Duffy (Frank), for the Special Committee appointed to consider the question of the Buck Stove and Range Co., announced that a report from that committee was ready.

"Delegate WILSON (JAMES): I move that that report be made a special order of business for two thirty o'clock this afternoon.

"After a short discussion, the motion was withdrawn, and Delegate Ramsey, for the Special Committee, read the following:

To the Officers and Delegates of the Twenty-Seventh Annual Convention of the American Federation of Labor:

Your special Committee, to which was referred the subject matter contained in the report of President Gompers and of the Executive Council, relative to the suit brought by J. W. Van Cleve, of the Buck Stove and Range Co., against the American Federation of Labor and its officers, and all matters in connection therewith, begs leave to report as follows:

"We have given the reports, the evidence and all other matters in connection with the suit, our deliberate consideration. 163 There is not the least doubt in our minds but that the suit in question, the scurrilous and scandalous campaign of vilification against the officers of our great movement, the rampant antagonism of the worst elements of the capitalist class as manifested in Los Angeles and elsewhere, are all of them of a kind, leading up to and the result of the creation of the million and a half dollars War Fund by the manufacturers' National Association—raised in the effort to weaken, and ultimately destroy the effectiveness of our great movement, our movement which protects and advances the interests of the toiling masses of our country against the greed and aggression of those who seek to profit if the toilers were rendered defenseless.

"We have read with the deepest interest the fundamental principles involved in the Van Cleve suit as set forth in President Gompers' report, both under the caption dealing specifically with the suit and also in that part of the report dealing with the "injunction abuse." We venture to assert that in no document of a similar kind or in any treatise upon the subject have constitutional guar- 167 antees and inherent principles been set forth more clearly, logically and truly than in the President's report.

"There is involved in the Van Cleve Buck Stove and Range Company suit against the A. F. of L. and its officers fundamental rights which strike at the very root of free institutions. The freedom of speech and the freedom of the press are involved and, as President Gompers so ably and amply set forth, there are involved the right of man's ownership of himself, his ownership of his labor, power, of the wages he receives in return for the exchange of his labor power, and the use to which these wages may be devoted.

"Freedom was never taken from a people by one attack. The process was and is gradual. It is the denial of the rights of one portion of the people at one time, the infringement upon the liberties of another portion at another time, that step by step make inroads into the citadel of freedom and undermine the entire structure.

"So with the injunctive process as typified in the present 168 suit. The attempt to deny to the men of labor the right of the freedom of speech and of the press should not only arouse the resentment of the great masses of our people, but it should appeal strongly to the newspapers and magazines of our time.

"The freedom of the press implies not merely that one shall print and say the things that please. For such a purpose guarantees are entirely superfluous. The constitutional guarantees of the freedom of the press were designed to protect the dissidents, the opponents, in their right not only to protest but to make public that protest in speech and print, in an appeal to the people against existing power and conditions. In it are involved the guarantee of the right to say the things that displease, man being responsible for his utterances, and never to be enjoined or prohibited from expressing himself.

"The blow in this instance against labor and its official magazine, the American Federationist, may tomorrow in some form be directed against another publication, and though labor may be called upon to bear the brunt and make the contest in the present proceedings, we urge upon the press of our country the consideration of the principle of free speech and free press involved in these proceedings.

"If the rights and the interests of the people are to be protected and defended against modern greed, avarice, chicanery and unlawful power, we cannot, and we will not, surrender or yield the exercise of the liberty of speech, the liberty of the press.

"We protest against and repudiate the theory, either expressed or implied, that there exists any direct or indirect property right in workmen other than by the workmen themselves, and in defense of our position upon these great fundamental principles made sacred by history and traditions, we pledge our united efforts.

"We commend the action thus far taken by the president and the executive council, in taking the necessary legal steps to maintain our constitutional rights. Your Committee believes it is of vital importance that this suit be fought to a successful termination, and, therefore, to raise an available fund for that purpose, we recommend that this convention authorize the President and the Executive Council to issue a special assessment of one cent per capita, and that the president and the Executive Council aforesaid be further authorized to make such other and further assessment, should occasion require, as they in their judgment may deem necessary.

FRANK DUFFY, *Chairman*.
 D. J. RAMSEY, *Secretary*.
 JOHN P. FREY,
 S. L. LANDERS,
 JOHN P. SMITH,
 JOHN A. MOFFITT,
 EMMET T. FLOOD,
 J. G. NOYES,
 GEORGE FINGER,
 W. D. MAHON,
 JERE L. SULLIVAN,
 JOHN FITZPATRICK.

"Delegate RAMSEY: I move the adoption of the report.
 The motion was seconded and carried by unanimous vote of the convention."

Do you recall that action? A. Yes, I recall it in a general way. There are so many matters coming up in a convention of that kind that you cannot keep everything in mind. I recall the appointment of a special committee and the submission of their report.

171 38 Q. And its adoption? A. Yes sir.

39 Q. By unanimous vote? A. I am not in a position to say by unanimous vote. I believe the record is correct.

40 Q. Did you vote for it? A. That I could not say definitely whether I did or not, for this reason, that many of those resolutions are adopted by a yea and nay vote and having no vote against the resolution, it is regarded as being adopted unanimously.

41 Q. I call your attention to page 215 of the official report of the proceedings of the American Federation of Labor, and to the following:

"Delegate Ramsay for the Special Committee, read the following supplemental report:

"To the officers and delegates of the Twenty-Seventh Annual Convention of the American Federation of Labor:

"Your special Committee, to which was referred the subject matter of the suit of the Buck Stove and Range Company, begs leave to make the following supplemental report:

172 "Referring to Resolution No. 49, hereto attached, by Delegate A. B. Grout and James J. Dardis, of the Metal Polishers' Buffers and Platers Union, relative to a "campaign of education," we fully agree with the purpose of the resolution, but recommend that the details and manner of carrying out the spirit and object of the resolution be left in the hands of the president and Executive Council.

Respectfully submitted.

FRANK DUFFY, *Chairman.*

D. G. RAMSAY *Secretary.*

JOHN P. FREY.

S. L. LANDERS.

JOHN A. MOFFITT.

JOHN T. SMITH.

JOHN FITZPATRICK.

EMMET T. FLOOD.

GEORGE FINGER.

JOHN G. NOYES.

W. D. MAHON.

JERE L. SULLIVAN.

On motion, the report of the committee was concurred in."

Do you recall that? A. I recall that the committee made a report.

173 42 Q. And the action of the convention thereon? A. Yes sir.

43 Q. Mr. Ryan, were you a delegate to the Nineteenth annual

convention of the United Mine Workers of America, held at Indianapolis, Indiana from January 21st to February 3rd, inclusive, 1908? A. Yes sir.

44 Q. Do you recall the action of the Committee on Resolutions that you reported and which was adopted as to whether there were any dissenting votes? A. Resolution 49?

45 Q. Yes. A. My recollection is there were no dissenting votes.

46 Q. Was there a full committee present? A. At the time acted on?

47 Q. Yes. A. I would not say positively that a full committee was present, but there was a quorum present; there may have been one or two absent.

48 Q. Do you remember who were present? A. No.

174 49 Q. Can you recall whether Mr. Duncan was present?

A. At that particular time, no, for this reason, there were few occasions when Mr. Duncan was absent on other business in connection with the Federation of Labor, and during his absence, some other member of the Committee acted as chairman. I would not say positive whether he was present at the time this resolution was adopted or not.

50 Q. What body did you represent as delegate in the United Mine Workers Convention, the Nineteenth Annual Convention of the United Mine Workers of America? A. Local Union 996 of Braidwood, Illinois, where I held my membership. I might state I represented one or two other local unions, but that is a local union in which I held membership.

51 Q. I show you a pamphlet, Proceedings of the Nineteenth Annual Convention of the United Mine Workers of America, held in the city of Indianapolis, Indiana, January 21st, to February 3rd, inclusive, 1908, and ask you whether that is a copy of the official proceedings of that convention? A. It is.

175 Mr. DAVENPORT: I ask the notary to make this pamphlet Exhibit No. 1 and attach it to this deposition and make it a part thereof.

The said pamphlet was marked by the Notary Exhibit No. 1, and the same is hereto attached and made a part of this deposition.

52 Q. Do you recall how many delegates there were at that convention? A. I could not say offhand.

53 Q. I call your attention to pages four to twenty-two inclusive, of Exhibit No. 1, and ask you whether or not that is a list of the delegates? A. Yes sir.

54 Q. As reported upon by the Committee on Credentials? A. Yes sir.

55 Q. Who presided at that convention? A. President John Mitchell when the Convention came to order.

56 Q. By virtue of his authority as president of the United Mine Workers of America and also *ex officio* president of the convention? A. Yes.

176 57 Q. Did you act as one of a committee on resolutions in that convention? A. Yes sir.

58 Q. By whom were you appointed? A. By the president.

59 Q. John Mitchell? A. Yes sir.

60 Q. I will call your attention to page 168 of Exhibit No. 1. Committee on Resolutions, and ask that you read the same. A. (Reading:) "Committee on Resolutions—W. R. Fairley, District 20; W. D. Ryan, District 12; D. H. Sullivan, District 6; James Purcell, District 2; James S. Clark, District 5; John McLennan, District 15; Robert Gilmour, District 14; Edward Cunningham, District 21; Andrew Matthey, District 7; Charles Fox, District 11; Ben Morris, District 17."

61 Q. Were all those persons named members of that committee? A. Yes.

62 Q. Were they all delegates to the convention? A. Yes.

63 Q. Did the committee meet? A. Yes sir.

177 64 Q. And organize? A. Yes sir.

65 Q. Who was chairman? A. W. R. Fairley.

66 Q. Who was secretary? A. W. D. Ryan.

67 Q. Yourself? A. Yes sir.

68 Q. I call your attention to page 203 of Exhibit No. 1, and what appears therein, as follows:

"Resolution No. 73.

Whereas, The Bucks Stove and Range Company, of St. Louis, Missouri, have taken legal steps to prevent organized labor in general, and the officers and executive committee of the A. F. of L., in particular, from advertising the above named firm as being on the "unfair," or "we-don't-patronize list," and

Whereas, By the issue of such an injunction or restraining order as prayed for by above named firm, organized labor will be deprived of one of its most effective weapons, and

Whereas, J. W. Van Cleve, the president of the above named firm, also president of the National Manufacturers' Association,
178 stated that in a few years' time, he would disrupt organized labor; therefore,

Be It Resolved, That the U. M. W. of A., in Nineteenth Annual Convention assembled, place the Bucks stoves and ranges on the unfair list, and any member of the U. M. W. of A. purchasing a stove of above make be fined five dollars, and failing to pay same, be expelled from the organization.

HARVEY STROUD.
FRANK SCHAEFER.

Endorsed by Local Union 755, Staunton, Ill.

(Referred to Committee on Resolutions by Committee on Distribution.)"

As secretary of the Committee on Resolutions, did you receive that resolution? A. The Committee received it either through the secretary or president of the committee, but we received the resolution.

69 Q. You do not recall whether Mr. Wilson handed it to you or not? A. My recollection is that Mr. Wilson handed the resolution

to the secretaries of the various committees, to whom they were assigned, and in that case, I would have received it.

179 70 Q. Mr. W. B. Wilson, was he at this time, international Secretary-Treasurer of the United Mine Workers of America, and as such was he chairman of the committee on distribution? A. He was a member of that committee and possibly chairman. I would not say. The record shows. I would take the record for it.

71 Q. Was that resolution considered by the committee? A. Yes sir.

72 Q. Can you recollect whether or not it was a full committee? A. I would not say positively that the members were all present at that or any other particular time. There are times in all these conventions that members of a committee are absent on other important business and it is possible they were not all there, and they may have been all there. We keep no record of the presence of the members of a committee, except we have a quorum.

73 Q. Will you state, if you can, Mr. Ryan, what gentlemen were your fellow delegates from the United Mine Workers of America to the American Federation of Labor Convention, held at Norfolk, Virginia, in 1907? A. The delegates were John Mitchell—wait a minute, Mr. Mitchell was not there, he was sick and in the hospital.

74 Q. You have the report? A. The delegates were T. L. Lewis, W. B. Wilson, W. D. Ryan, John H. Walker, John T. Dempsey, George W. Savage, and D. H. Sullivan, seven.

75 Q. Was Mr. Sullivan the alternate of Mr. Mitchell? A. I believe he was. He was the first alternate in the absence of Mr. Mitchell.

76 Q. Is that the same D. H. Sullivan whose name appears as one of the Committee on Resolutions? A. In the Committee on Resolutions in the Miners' organization?

77 Q. Yes. A. Yes.

78 Q. Committee on Resolutions in the Nineteenth Annual Convention of the United Mine Workers of America? A. Yes sir.

79 Q. I will call your attention to pages 167 to 203, inclusive, of Exhibit No. 1, and the record of the second day—morning session:

181 "The Convention was called to order at nine o'clock A. M., President Mitchell in the chair." I will ask you whether or not, the resolutions appearing there were printed and distributed among the delegates, of that proceeding? A. It has been the custom in the Miners' Convention for several years, to have a verbatim report of each day's proceedings, which are distributed to the delegates as soon as they can be secured.

80 Q. Have you any independent recollection of whether or not that resolution was printed after its introduction? A. All resolutions were printed.

81 Q. And distributed with the proceedings? A. Yes sir.

82 Q. I call your attention, Mr. Ryan, now to the record of the proceedings of the fifth day of the morning session at pages 254, 255, 256, 257, 258, 259, 260 and 261, and I will ask you whether the Committee on Resolutions considered Resolution No. 73, herein-

before set out, and took any action thereon, the Committee on Resolutions? A. Yes sir.

83 Q. As secretary of the Committee on Resolutions, did you at that session report Resolution No. 73, which reads as follows:

182

"Resolution No. 73.

Whereas, The Buck Stove and Range Company, of St. Louis, Mo., have taken legal steps to prevent organized labor in general, and the officers and Executive Committee of the A. F. of L., in particular, from advertising the above named firm as being on the "unfair" or "we don't patronize list," and

Whereas, by the issue of such an injunction or restraining order as prayed for by above named firm, organized labor will be deprived of one of its most effective weapons, and

Whereas, J. W. Van Cleve, the president of the above named firm, also president of the National Manufacturers' Association, stated that in a few years' time he would disrupt organized labor; therefore,

Be It Resolved, That the U. M. W. of A., in Nineteenth Annual Convention assembled, place the Buck stoves and ranges on the unfair list, and any member of the U. M. W. of A. purchasing a stove of above make, be fined \$5.00, and failing to pay same be expelled from the organization.

HARVEY STROUD.
FRANK SCHAEFER.

Endorsed by Local Union 755 Staunton, Ill.

183

A. Did I report it?

84 Q. Yes. A. Yes sir.

85 Q. Was there any action taken on it by the convention? A. Yes sir.

86 Q. What was that action? A. The Committee submitted a favorable report and the Convention adopted the report of the committee.

87 Q. I will call your attention to the official report of the proceedings: "The Committee recommended concurrence in the resolution.

On motion Delegate Walker (J. H.), the recommendation of the committee was concurred in, the vote being unanimous."

Can you state whether or not that action was taken? A. To the best of my recollection it was taken.

88 Q. Who was presiding at that time? A. I cannot say positive who was presiding; as I stated in the beginning, President Mitchell was the president of the convention.

89 Q. What is your recollection about the matter, if you have an independent recollection? A. I cannot say positively whether or not President Mitchell was in the chair, for this reason, there are times when the Vice President is called to the chair, or some other delegate, temporarily.

90 Q. Have you any independent recollection about it? A. I

haven't any independent recollection of it. My impression, however, is, that president Mitchell was in the chair at the time. I cannot remember one way or the other.

91 Q. Where were you when you made this report? A. On the stage.

92 Q. Near Mr. Mitchell? A. The chairman and the secretary of the committee are at tables by themselves on the stage and not far from the presiding officer's table.

93 Q. How far? A. Probably eight or ten feet.

94 Q. Did you read the resolution? A. I did.

95 Q. Walker says you have a loud and clear voice. You read it clearly and distinctly? A. I always do. I think they all heard me, if that is what you want to get at.

185 96 Q. At that convention, were votes for the officers of the United Mine Workers of America canvassed and declared? A. Yes sir.

97 Q. As I understand it, the mode of choosing the officers of the United Mine Workers of America, is by a referendum vote? A. Popular vote.

98 Q. Among the members of the different locals? A. Yes sir.

99 Q. And those votes are reported to the convention, canvassed, and the result ascertained and declared? A. Canvassed and the result declared to the convention.

100 Q. At that convention, were you chosen international secretary-treasurer? A. Yes sir.

101 Q. When did your term of office begin? A. April 1st, 1908.

102 Q. Your predecessor was W. D. Wilson? A. Yes sir.

103 Q. He is one of the Congressmen from the State of Pennsylvania at the present time? A. Yes sir.

186 104 Q. Do you know, Mr. Ryan, how many official reports of the proceedings are printed? A. I could not say definitely at this time.

105 Q. One is sent to each of the locals? A. Yes sir.

106 Q. Are there any others printed? A. There may be some surplus copies in the office. I believe there are a few over there.

107 Q. Your official connection with the office of secretary-treasurer of the United Mine Workers of America did not begin until the first of April 1908? A. Began the first of April, 1908.

108 Q. Have you yourself any personal recollection or any knowledge of a circular being sent to the different locals, setting forth the action of the convention on the subject of the Buck Stove and Range Company? A. No sir, I have not.

109 Q. No knowledge of it? A. No sir.

110 Q. I direct your attention to Exhibit No. 1, pages 378 to 406 inclusive, and I will ask you whether or not that is an official list of the districts and local unions by number and the membership of each local? A. No sir, it is only a partial list.

187 111 Q. I will direct your attention to pages 61 to 117 inclusive and ask you whether or not that is a list of the locals in the several districts and their corresponding numbers? A. That

Local Union No.	Location.	Membership.
" " "	306 Old Forge.	
" " "	311 Plymouth	52
" " "	336 Old Forge.	
" " "	349 Wilkes-Barre	131½
" " "	400 Wanamie	87
90		
" " "	402 Duryea	26
" " "	446 Sugar Notch.	
" " "	452 Luzerne.	
" " "	454 Dorranceton.	
" " "	458 Maltby.	
" " "	460 Scranton	100
" " "	463 Old Forge.	
" " "	466 Wilkes-Barre	41
" " "	483 Moosie	46
" " "	484 Miners Mills.	
" " "	495 Jessup	14
" " "	519 Scranton	82
" " "	526 Scranton	46
" " "	599 Glen Lyon	113
" " "	623 Wilkes-Barre	43
" " "	637 Scranton	69
" " "	699 Edwardsdale.	
" " "	727 Wilkes-Barre	69
" " "	767 Pittston	120
" " "	778 Duryea	67
" " "	808 Scranton	73
" " "	838 Nanticoke.	
191		
" " "	844 Carbondale.	
" " "	846 Alden Station	400
" " "	862 Scranton.	
" " "	870 Edwardsdale	86
" " "	877 Carbondale	206
" " "	879 Dunmore.	
" " "	897 Nanticoke	65
" " "	898 Nanticoke	402
" " "	899 W. Nanticoke	141
" " "	900 Rhone	30
" " "	901 Taylor	153
" " "	905 Plymouth.	
" " "	917 Olyphant.	
" " "	925 Archbald.	
" " "	957 Glen Lyon	176
" " "	969 Carbondale	148
" " "	988 Marshwood.	
" " "	1001 Plymouth	175
" " "	1004 Throop	200

Local Union No.	Location.	Membership.
" " " 1005	Peckville	307
" " " 1010	Olyphant	214
" " " 1012	Eynon	170
" " " 1013	Taylor	156
192		
" " " 1016	Dunmore	65
" " " 1017	Avoca.	
" " " 1024	Mayfield	70
" " " 1025	Jermyn	146
" " " 1035	Forest City	156
" " " 1036	Minooka.	
" " " 1052	Seranton	276
" " " 1056	Forrest City.	
" " " 1069	Plymouth.	
" " " 1072	Seranton.	
" " " 1076	Nanticoke.	
" " " 1084	Pittston	
" " " 1123	Yates.	
" " " 1132	Plymouth	25
" " " 1133	Minooka	40
" " " 1137	Olyphant.	
" " " 1138	Kingston	133
" " " 1141	Pittston	30
" " " 1142	Eynon	300
" " " 1155	Wilkes-Barre.	
" " " 1156	W. Pittston.	
" " " 1157	Mocanaqua	332
" " " 1159	Larksville	400
193		
" " " 1167	Glen Lyon	70
" " " 1168	Wilkes-Barre	104
" " " 1173	Chauncey.	
" " " 1174	Plymouth.	
" " " 1175	Plymouth.	
" " " 1192	Wyoming.	
" " " 1194	Mayfield	90
" " " 1217	Courtdale.	
" " " 1221	Luzerne	13
" " " 1229	Dickson City	23
" " " 1278	Seranton.	
" " " 1296	Coyne.	
" " " 1311	Pittston.	
" " " 1331	Seranton	10
" " " 1353	Parsons.	
" " " 1360	Seranton	62
" " " 1367	Pittston.	
" " " 1389	Wyoming	146
" " " 1407	Wilkes-Barre	130

Local Union No.	Location.	Membership.
" " " 1413	Lee.	
" " " 1428	Seranton.	
" " " 1432	Ashley.	
" " " 1456	Miners Mills	99
194		
" " " 1463	Wilkes-Barre	35
" " " 1482	Sugar Notch	22
" " " 1483	Plains	34
" " " 1487	Port Griffith	30
" " " 1495	Pittston.	
" " " 1498	Wilkes-Barre	45
" " " 1503	Seranton.	
" " " 1545	Maltby.	
" " " 1546	Wilkes-Barre.	
" " " 1581	Inkerman.	
" " " 1601	Wyoming.	
" " " 1617	Seranton	110
" " " 1623	Duryea.	
" " " 1635	Plymouth	8
" " " 1644	Dickson City.	
" " " 1645	Luzerne	12
" " " 1649	Seranton	177
" " " 1656	Seranton	3
" " " 1670	Dunmore.	
" " " 1672	Olyphant.	
" " " 1680	Seranton	33
" " " 1681	Seranton.	
" " " 1682	Archbald.	
195		
" " " 1689	Wilkes-Barre	14
" " " 1690	Parsons.	
" " " 1691	Olyphant	50
" " " 1693	Seranton.	
" " " 1699	Forest City	40
" " " 1700	Forest City	42
" " " 1703	Inkerman	140
" " " 1707	Jessup	111
" " " 1714	Seranton	25
" " " 1716	Jessup.	
" " " 1732	Courtdale	79
" " " 1737	Avoca	22
" " " 1740	Seranton.	
" " " 1756	Pittston.	
" " " 1759	Dunmore.	
" " " 1760	Dunmore.	
" " " 1766	Avoca.	
" " " 1770	Plymouth.	
" " " 1770	Duryea.	

Local Union No.	Location.	Membership.
" " " 1877	Olyphant	49
" " " 1897	Simpson	41
" " " 1996	Hudson	18
" " " 1997	Miners Mills	81

196

" " " 2079	Dupont.	
" " " 2202	Nanticoke.	
" " " 2213	Jessup.	
" " " 2349	Yates.	
" " " 2439	Nanticoke	21

District No. 2.

" " " 9	Expedite.	
" " " 18	Philipsburg	294
" " " 34	Houtzdale	50
" " " 77	Redburn.	
" " " 89	Starford	413
" " " 95	Defiance	138
" " " 140	Arcadia	397
" " " 144	Spangler	314
" " " 145	Hopewell	42
" " " 150	Portage	300
" " " 164	Cresson.	
" " " 176	Winburne	109
" " " 199	Sagamore	255
" " " 252	Mineral Point	153
" " " 293	Iselin.	
" " " 339	Hawk Run	223
" " " 375	Madera	96
" " " 378	Glen Richey	346

197

" " " 395	De Lancey	290
" " " 493	Portage.	
" " " 472	South Fork	1207
" " " 480	Chambersville	108
" " " 512	Houtzdale.	
" " " 453	Portage	270
" " " 523	Du Bois	255
" " " 538	Phillipsburg	117
" " " 541	Helvetia	409
" " " 542	Reynoldsville	100
" " " 570	Portage	400
" " " 582	Hopewell	125
" " " 601	Clymer	146
" " " 609	Morrisdale Mines	250
" " " 616	Hastings	516
" " " 617	Barnesboro	1160

Local Union No.	Location.	Membership.
" " " 626	Desire	377
" " " 653	Coalmont.	
" " " 673	Reynoldsville	181
" " " 676	Catfish.	
" " " 738	Coal Glen	165
" " " 801	Munson Station	422
198		
" " " 825	Ginter	80
" " " 830	Dunlo	512
" " " 831	Ernest	313
" " " 837	Fairmount City	231
" " " 842	Patton	660
" " " 865	Arnot	415
" " " 871	Strattonville	15
" " " 880	Burnside	39
" " " 908	Lilly	488
" " " 921	Allport	74
" " " 924	Carrolltown	124
" " " 930	Luthersburg	57
" " " 935	Cassandra	399
" " " 937	Elsie.	
" " " 1002	Rathmel	266
" " " 1031	Robertsdale.	
" " " 1033	Moran.	
" " " 1034	Orbisona.	
" " " 1043	Oak Ridge	226
" " " 1061	E. Bray.	
" " " 1081	Punxsutawney	123
" " " 1106	Lovejoy	93
" " " 1134	Grass Flat	536
199		
" " " 1139	Grampian	80
" " " 1186	Fredell	153
" " " 1218	Anita	481
" " " 1269	Elmora.	
" " " 1280	Smoke Run	81
" " " 1281	Six Mile Run	72
" " " 1295	Glen Campbell	350
" " " 1305	Rimersburg	203
" " " 1310	Lindsay	147
" " " 1317	Baecessaria	97
" " " 1321	Kearney	220
" " " 1364	Reynoldsville.	
" " " 1370	Morris Run	895
" " " 1386	Nanty Glo	388
" " " 1402	Coalport	420
" " " 1441	Tyler	331
" " " 1445	Broad Top City	60

Local Union No.	Location.	Membership.
" " " 1468	St. Boniface	294
" " " 1489	Clymer	204
" " " 1493	Gallitzin	780
" " " 1515	Dixonville	270
" " " 1528	Hamilton	55
" " " 1569	Lindsay	225

200

" " " 1602	Six Mile Run.	53
" " " 1612	Ansonville	338
" " " 1633	Ehrenfeld	109
" " " 1683	Six Mile Run	666
" " " 1736	Rossiter	77
" " " 1747	New Bethlehem	34
" " " 1773	Six Mile Run	131
" " " 1784	Du Bois	210
" " " 1785	Yatesboro	150
" " " 1792	Osceola Mills	26
" " " 1793	Victor	167
" " " 1798	Ramseytown	78
" " " 1880	Decatur.	208
" " " 1837	Defiance	90
" " " 1848	Cherry Tree	102
" " " 1854	Wellsboro	104
" " " 1855	Emeigh Run	31
" " " 1857	Fallen Timber	175
" " " 1859	Catfish	272
" " " 1871	Clarence	134
" " " 1924	Bitumen	144
" " " 1929	Six Mile Run	
" " " 1992	Amsbry	

201

" " " 1994	Madera	144
" " " 1995	Dudley	110
" " " 2003	Carrolltown.	
" " " 2006	Hyde City	25
" " " 2008	St. Benedict	368
" " " 2009	Brisbin.	
" " " 2010	Cymbria Mines	400
" " " 2017	Llodell	204
" " " 2030	Brynedale	432
" " " 2034	Osceola Mills	206
" " " 2041	Blossburg	64
" " " 2043	Wishaw	235
" " " 2044	Dagus Mines	485
" " " 2045	Force	263
" " " 2054	Coupon	360
" " " 2064	Frugality	312
" " " 2085	Langdondale	185

Local Union No.	Location.	Membership.
" " " 2092	Blandburg	53
" " " 2098	Arnot	375
" " " 2099	Harry Barber	57
" " " 2200	Six Mile Run	68
" " " 2211	Clearfield	40
" " " 2231	Canoe Run	140
202		
" " " 2233	Beaverdale	600
" " " 2246	Marstellar	354
" " " 2263	Sligo.	
" " " 2265	Rimersburg	109
" " " 2279	Elbon.	
" " " 2280	Show Shoe	176
" " " 2292	Penfield	81
" " " 2294	Ventland	70
" " " 2295	Curwensville	47
" " " 2296	Crenshaw	91
" " " 2297	Brockwayville	230
" " " 2303	W. Monterey	130
" " " 2304	Rimer	70
" " " 2305	Boardman	72
" " " 2306	Mossgrove	86
" " " 2308	Dutch Hill	68
" " " 2310	Cartwright	246
" " " 2319	Six Mile Run.	
" " " 2342	Lawsonham	270
" " " 2351	Clarence.	
" " " 2383	Vintondale	170
" " " 2402	Benezett	76
" " " 2408	Sykesville	106
" " " 2426	Hawthorne	137
203		
" " " 2484	Du Bois	253
" " " 2552	Pardus	131
" " " 2638	Wilgus	120
" " " 2658	Huey	61
" " " 2722	Du Bois	361
" " " 2739	Gipsy	187
" " " 2746	Medix Run	40
District No. 5.		
" " " 51	Hazzard, Pa.	258
" " " 59	Morgan.	
" " " 79	Webster	231
" " " 92	Slippery Rock	165
" " " 96	West Newton	254
" " " 108	Dunlevy	200
" " " 132	Belle Vernon	296

Local Union No.	Location.	Membership.
" " " 156	Carnegie	151
" " " 168	Wampum.	
" " " 179	New England	208
" " " 187	Allenport	430
" " " 235	Hazzard	367
" " " 243	Sherwin.	
" " " 248	Fayette City	245
" " " 260	Moon Run	400
204		
" " " 266	Finleyville	284
" " " 269	Baird	275
" " " 274	Boston	230
" " " 280	Courtney	60
" " " 295	Volant.	
" " " 316	Belle Vernon	244
" " " 363	Allenport.	
" " " 376	Roscoe.	
" " " 408	New Eagle	210
" " " 410	Venetia.	
" " " 415	Beaver Falls.	
" " " 422	Coal Bluff.	
" " " 428	Fair Haven	100
" " " 456	Sutersville	123
" " " 524	Carnegie	528
" " " 539	Floreffe	240
" " " 547	Reissing	60
" " " 548	Buena Vista.	
" " " 549	Webster	140
" " " 558	McDonald	100
" " " 590	California	400
" " " 593	Charleroi	260
" " " 595	Burgettstown	222
205		
" " " 615	Fayette City	285
" " " 638	New Galilee.	
" " " 761	Webster	94
" " " 762	Elizabeth	100
" " " 795	Cecil	140
" " " 818	Pardoe	210
" " " 827	Broughton	180
" " " 829	Broughton	200
" " " 847	Harrisville	150
" " " 849	Brownsville	289
" " " 854	Elco	220
" " " 873	Broughton	200
" " " 911	Washington	186
" " " 914	Kimberly	62
" " " 963	Manown	192
" " " 1015	McDonald	150

Local Union No.	Location.	Membership.
" " " 1046	Imperial	375
" " " 1147	Beadling	300
" " " 1148	Fredericktown	100
" " " 1165	Ellsworth	486
" " " 1180	Coal Center	200
" " " 1188	Kaylor	625
" " " 1190	Ellsworth	500
206		
" " " 1197	Cokeburg	200
" " " 1198	Beadling	75
" " " 1201	Monongahela	170
" " " 1208	Broughton.	
" " " 1214	Carrick	200
" " " 1219	Presto	200
" " " 1247	Sturgeon	290
" " " 1250	Meadow Lands	50
" " " 1319	Stockdale	375
" " " 1330	Gillespie	225
" " " 1339	Castle Shannon	365
" " " 1344	Mercer	150
" " " 1346	Broughton	214
" " " 1349	Blythedale	153
" " " 1352	Washington	500
" " " 1355	Avella	104
" " " 1361	California	220
" " " 1363	Woodville	20
" " " 1372	Elrama	125
" " " 1382	Oakdale	174
" " " 1395	Monessen.	
" " " 1405	Belle Vernon	42
" " " 1420	Sturgeon	29
207		
" " " 1446	Washington	302
" " " 1447	Brownsville	188
" " " 1477	Ivanhoe	300
" " " 1481	Sutersville.	
" " " 1589	Arnold City	240
" " " 1647	Wellsburg, W. Va.	
" " " 1648	Fair Haven, Pa.	160
" " " 1664	Frederickstown	80
" " " 1678	Sunny Side	275
" " " 1712	Epton	280
" " " 1718	Dravosburg	282
" " " 1724	Cannonsburg	363
" " " 1730	Smithdale	164
" " " 1786	Stockdale.	
" " " 1787	Fayette City.	
" " " 1794	Hanlin Station	100
" " " 1807	Beadling.	

Local	Union	No.	Location.	Membership.
"	"	"	1809 Willock	237
"	"	"	1812 Willock	256
"	"	"	1826 Cannonsburg.	
"	"	"	1829 Meadow Lands	640
"	"	"	1830 Braznell.	
"	"	"	1832 Jonetta.	
208				
"	"	"	1892 Midway	152
"	"	"	1898 Imperial	228
"	"	"	1917 Bridgeville.	
"	"	"	1926 Grove City.	
"	"	"	1943 Bruceton	212
"	"	"	1947 Elizabeth	324
"	"	"	1965 Wellsburg	123
"	"	"	1973 Bulger	200
"	"	"	1975 Kelly Station.	
"	"	"	1976 Bunola	229
"	"	"	2000 Gradatim	200
"	"	"	2007 Cherry Valley	80
"	"	"	2012 McDonald	140
"	"	"	2021 Hollidays Cove, W. Va.....	200
"	"	"	2025 Van Meter, Pa.	
"	"	"	2026 Westland.	
"	"	"	2029 Van Voorhis.	
"	"	"	2048 Carnegie	155
"	"	"	2049 Bulger	175
"	"	"	2050 McDonald	120
"	"	"	2057 Whitsett	283
"	"	"	2065 Cherry Valley	179
"	"	"	2086 Brownsville	300
209				
"	"	"	2087 West Brownsville	232
"	"	"	2088 Wampum.	
"	"	"	2091 Cherry Valley	200
"	"	"	2102 Fayette City	207
"	"	"	2103 Brownsville	30
"	"	"	2104 Bridgeville	213
"	"	"	2105 Burdine	200
"	"	"	2107 Avella	50
"	"	"	2116 Courtney.	
"	"	"	2128 Houston.	
"	"	"	2144 Elizabeth	310
"	"	"	2146 Bowerton.	
"	"	"	2147 Morgan	400
"	"	"	2148 Pricedale	170
"	"	"	2168 Homestead	161
"	"	"	2204 Cecil	101
"	"	"	2206 Walkers Mills	60

Local Union No.	Location.	Membership.
" " " 2210	Virginiaville, W. Va.....	42
" " " 2222	Hilliards, Pa.	
" " " 2223	Volant	64
" " " 2224	Harrisville	56
" " " 2228	Burdine	180
" " " 2230	Monongahela City	120
210		
" " " 2240	Hilliards.	
" " " 2241	South Burgettstown.	
" " " 2242	Deegan.	
" " " 2243	Frank	160
" " " 2244	Courtney	245
" " " 2249	Boyers.	
" " " 2250	Elco	25
" " " 2251	Scott Haven.	
" " " 2252	Claytonia.	
" " " 2253	Jackson Center	74
" " " 2254	Jackson Center	133
" " " 2256	Wick Haven	240
" " " 2271	Smithton	88
" " " 2272	Hickman	100
" " " 2273	Smithton	136
" " " 2274	Jackson Center.....	57
" " " 2278	Bentleyville.	
" " " 2338	Stoneboro.	
" " " 2353	Fitz Henry.	
" " " 2354	Belle Vernon	178
" " " 2355	Hays.	
" " " 2363	Castle Shannon	250
" " " 2364	Jones Station	425
" " " 2367	Volant.	
211		
" " " 2394	Idlewood.	
" " " 2396	Fayette City	200
" " " 2399	California	800
" " " 2401	Sturgeon	40
" " " 2424	Lock No. 3.....	110
" " " 2499	Homestead	101
" " " 2500	Large.	
" " " 2501	Jacobs Creek	330
" " " 2503	Webster.	
" " " 2506	Frank	330
" " " 2507	Oakdale.	
" " " 2563	Cuddy	350
" " " 2571	Export	600
" " " 2721	Hilliards.	
" " " 2725	Claytonia.	
" " " 2728	South Burgettstown	60

			District No. 6.		
Local Union No.			Location.		Membership.
"	"	"	5	New Philadelphia, Ohio.....	100
"	"	"	7	Coshocton	37
"	"	"	8	Orbiston.	
"	"	"	13	Bridgeport	400
"	"	"	16	Marshfield	422
"	"	"	19	Axline.	
212					
"	"	"	35	Mineral City.	
"	"	"	38	Cambridge	218
"	"	"	44	Glencoe	225
"	"	"	45	Darlington, Pa.	
"	"	"	49	Jackson, Ohio.....	18
"	"	"	50	Tracey.	
"	"	"	54	Dicksonton	48
"	"	"	60	Ava	297
"	"	"	68	Washingtonville	80
"	"	"	71	Martins Ferry.....	120
"	"	"	73	Berlin X Roads.....	83
"	"	"	76	Massillon	30
"	"	"	78	Wellston	105
"	"	"	81	Congo	600
"	"	"	83	Flushing	58
"	"	"	93	Coshocton.	
"	"	"	116	Warnock	30
"	"	"	118	Nelsonville	210
"	"	"	121	Buffalo	210
"	"	"	123	Jacksonville	250
"	"	"	133	Negley.	
"	"	"	142	Mineral City.....	104
"	"	"	153	East Palestine.....	306
213					
"	"	"	162	Doanville.	
"	"	"	170	Salineville.	
"	"	"	183	Jackson	50
"	"	"	186	Shawnee	206
"	"	"	191	Glouster.	
"	"	"	193	Steel	335
"	"	"	196	Philo	30
"	"	"	200	Cambridge	56
"	"	"	202	Glouster	287
"	"	"	203	Sherodsville	28
"	"	"	208	Cambridge	84
"	"	"	211	Jackson.	
"	"	"	215	Coshocton	105
"	"	"	217	Beloit	20
"	"	"	218	Glen Roy.....	45

Local Union No.	Location.	Membership.
" " "	222 Oak Hill.	
" " "	226 Rendville	5
" " "	234 Glen Roy	9
" " "	245 Barton	400
" " "	259 Wellston.	
" " "	261 Roseville	104
" " "	270 Minersville.	
" " "	276 Glouster	25
" " "	278 Wellston.	
214		
" " "	279 Wellston.	
" " "	281 Glouster	133
" " "	282 Glen Roy	100
" " "	284 Don	225
" " "	290 Murray City	475
" " "	292 Maynard	462
" " "	296 Derthick	268
" " "	314 Roseville	58
" " "	319 Barton	96
" " "	324 Rose Farm	276
" " "	327 Wellston	72
" " "	335 Shawnee	8
" " "	338 Jacksonville	204
" " "	346 Glen Roy	33
" " "	357 Dell Roy	8
" " "	358 Chauncey	138
" " "	359 Diamond	38
" " "	364 Emmerson	100
" " "	365 Hollister	207
" " "	369 Saltillo	48
" " "	371 Byesville	128
" " "	379 Coshocton	109
" " "	383 Robins	175
215		
" " "	502 Deerfield	101
" " "	509 Barnhill	220
" " "	515 Coshocton	111
" " "	518 Jackson.	
" " "	530 Glen Roy.	
" " "	540 Buchtel	287
" " "	550 Wadsworth.	
" " "	551 New Lexington	10
" " "	552 Kipling.	
" " "	556 Ironton	30
" " "	566 Crooksville.	
" " "	568 Adena	118
" " "	573 Nelsonville	84

Local Union No.	Location.	Membership.
" " " 580	Doylestown	60
" " " 583	Pleasant City	130
" " " 584	Dellston.	
" " " 587	Joice	198
" " " 592	Byesville.	
" " " 608	Donnville	50
" " " 614	Hamden Junction.	
" " " 619	Misco	168
" " " 624	Navarre.	
" " " 628	Franklin Station	76
216		
" " " 385	Wainwright	200
" " " 389	Nelsonville	320
" " " 394	Murray City	295
" " " 397	Tiltonville	107
" " " 416	Barton	96
" " " 417	Carbondale	150
" " " 421	Nelsonville	226
" " " 429	Flushing	93
" " " 430	Bellaire	120
" " " 435	Washingtonville	60
" " " 436	Utley.	
" " " 441	Flushing	65
" " " 443	Massillon	16
" " " 450	Glen Roy	23
" " " 455	Salineville	152
" " " 457	Wellston.	
" " " 459	Lafferty	80
" " " 462	Chapman.	
" " " 464	Wellston.	
" " " 471	Dennison	40
" " " 479	New Waterford	162
" " " 489	Clinton	47
" " " 496	Stewartsville.	
217		
" " " 632	Rush Run	96
" " " 640	East Greenville	50
" " " 643	Stanwood.	
" " " 647	Baltic.	
" " " 648	Millfield	201
" " " 652	Klee	67
" " " 689	Beloit	50
" " " 698	Jackson	48
" " " 741	Coshocton.	
" " " 774	Summerdale	40
" " " 786	Bellaire.	
" " " 788	Benwood, W. Va.	
" " " 791	Pomeroy, Ohio	130

Local Union No.	Location.	Membership.
" " " 796	Lexington.	
" " " 802	Cambridge	275
" " " 804	Rayland	90
" " " 811	Salem	40
" " " 839	Bushtel.	
" " " 857	Nelsonville	70
" " " 858	Shanesville.	
" " " 861	Salem	15
" " " 867	Sand Run.	
" " " 881	Wellston	132
" " " 882	Chapman	120
218		
" " " 886	Darlington, Pa.	34
" " " 891	Shawnee, Ohio	120
" " " 896	Uhrichsville	72
" " " 907	Jackson.	
" " " 922	New Lexington	23
" " " 932	Hemlock	189
" " " 936	Beidler	79
" " " 939	Rayland.	
" " " 940	Pomeroy	120
" " " 943	Mineral	35
" " " 962	Duncan Falls.	
" " " 964	Crooksville.	
" " " 965	Salineville	52
" " " 966	Flushing.	
" " " 971	Yorkville	149
" " " 973	Jackson.	
" " " 976	Coshocton	50
" " " 977	Glouster.	
" " " 978	Barnhill	60
" " " 983	Nelsonville	260
" " " 985	Bowerstown	54
" " " 1029	Buchtel	85
" " " 1060	McArthur	81
" " " 1075	North Lawrence	38
219		
" " " 1077	Bellaire	229
" " " 1078	Shawnee	866
" " " 1099	Paris.	
" " " 1102	Derwent	300
" " " 1107	Uhrichsville	12
" " " 1118	Chapman.	
" " " 1129	McArthur	13
" " " 1145	Rendville	316
" " " 1150	Nelsonville	24
" " " 1154	Broadwell	32
" " " 1160	Ironton.	

Local Union No.	Location.	Membership.
" " " 1163	Kimberly	143
" " " 1181	Minerton	34
" " " 1184	Carbondale	228
" " " 1185	Blatchford	250
" " " 1204	Cambridge	184
" " " 1205	Sherodsville	200
" " " 1210	Uhrichsville.	
" " " 1215	Rockyhill.	
" " " 1216	Brilliant	87
" " " 1220	Coalton	26
" " " 1225	Moundsville, W. Va.	41
" " " 1232	Redville, Ohio	34
220		
" " " 1235	Bergholz	70
" " " 1236	Campbell	37
" " " 1242	Wellston	32
" " " 1245	Dillonvale	250
" " " 1249	Zanesville	400
" " " 1252	New Straitsville	460
" " " 1256	Jacobsburg	104
" " " 1259	Buchtel.	
" " " 1260	Nelsonville.	
" " " 1262	Wellston	88
" " " 1268	New Lexington	116
" " " 1270	Shawnee.	
" " " 1271	Martins Ferry.	
" " " 1272	Martins Ferry	38
" " " 1275	Dillon	69
" " " 1279	Bridgeport	70
" " " 1286	Stewartsville	43
" " " 1287	Santoy	140
" " " 1291	Carman.	
" " " 1297	Klee.	
" " " 1299	Wheeling, W. Va.	22
" " " 1302	St. Claresville, Ohio	273
" " " 1324	Moxahala	115
" " " 1332	Zaleski	75
221		
" " " 1334	Athens	200
" " " 1336	East Palestine	25
" " " 1338	Hawk	77
" " " 1342	Warrenton	75
" " " 1351	Murray	398
" " " 1373	Elk Fork	66
" " " 1375	Pomeroy	46
" " " 1392	Wheeling, W. Va.	
" " " 1396	McLuney, Ohio	120
" " " 1399	Pomeroy	96

Local Union No.	Location.	Membership.
" " " 1412	New Lexington	76
" " " 1418	Buchtel	118
" " " 1422	Coalton.	
" " " 1430	Conorville	260
" " " 1431	Rose Farm	120
" " " 1433	New Straitsville	62
" " " 1435	Amsterdam	200
" " " 1437	Jackson.	
" " " 1440	Shawnee	24
" " " 1480	Syracuse.	
" " " 1486	Cambridge	175
" " " 1488	"	12
" " " 1492	North Lawrence.	

222

" " " 1496	New Philadelphia.	
" " " 1531	Athens	250
" " " 1566	Pedro	108
" " " 1575	Washingtonville	28
" " " 1576	Byesville	240
" " " 1590	Salineville	26
" " " 1609	Lancing	300
" " " 1613	Floodwood	28
" " " 1614	Birds Run.....	54
" " " 1643	New Straitsville.	
" " " 1667	Murray.	
" " " 1696	Tiltonville.	
" " " 1706	Dillonvale	300
" " " 1708	Rosewell	65
" " " 1723	Hurford	76
" " " 1735	Bowerton.	
" " " 1741	Massillon	57
" " " 1744	Bailes Mill	36
" " " 1748	Byesville	135
" " " 1750	McLuney	101
" " " 1752	Mineral	31
" " " 1753	Byesville	350
" " " 1758	Coalton.	

223

" " " 1762	Robyville	250
" " " 1774	Brilliant	14
" " " 1801	Dalton	65
" " " 1804	North Lawrence.....	80
" " " 1813	Pomeroy	70
" " " 1815	Dixey	85
" " " 1825	Okell.	
" " " 1833	Maynard	60
" " " 1834	Byesville.	
" " " 1852	Coshocton.	

Local Union No.	Location.	Membership.
" " " 1861	Jep.	
" " " 1866	Gloucester	200
" " " 1881	Salemville	120
" " " 1887	Bergholz	170
" " " 1900	New Straitsville.....	64
" " " 1914	Wellston	68
" " " 1955	Floodwood.	
" " " 1962	Rayland	169
" " " 1964	East Greenville.....	152
" " " 1968	Coalton.	
" " " 1969	Dalton.	
" " " 1972	Chapman	39
" " " 1978	Shadyside	140
" " " 1979	Oakhill.	
224		
" " " 1980	Coshocton.	
" " " 1986	Byesville	92
" " " 1987	Byesville	139
" " " 2002	New Philadelphia.....	86
" " " 2031	Bellaire	14
" " " 2042	Florencedale	80
" " " 2051	Belle Valley.....	140
" " " 2052	Mid Vale.....	100
" " " 2058	Jackson	25
" " " 2059	Dillon Vale.	
" " " 2071	Conesville	61
" " " 2072	Trimble	140
" " " 2073	South Zanesville.....	87
" " " 2080	Bradley.	
" " " 2081	Justice	450
" " " 2082	Oakhill.	
" " " 2101	Clinton	80
" " " 2112	Santoy.	
" " " 2113	Wellston.	
" " " 2114	Oakhill	15
" " " 2115	Washingtonville.	
" " " 2116	Hiramsville	120
" " " 2127	Salineville	62
225		
" " " 2136	Lisbon	40
" " " 2137	Coalton.	
" " " 2138	Wheeling, W. Va.	54
" " " 2149	Deerfield, Ohio	100
" " " 2150	St. Claresville	336
" " " 2151	Dalton	62
" " " 2152	Black Fork	98
" " " 2154	Eipling	51
" " " 2167	Summerdale	55

Local Union No.	Location.	Membership.
" " " 2169	Jackson	12
" " " 2180	Mt. Pleasant	252
" " " 2181	Ramsey	350
" " " 2182	Toronto	250
" " " 2183	Piney Fork.	
" " " 2185	Herrick	130
" " " 2186	Canaanville	60
" " " 2187	Massillon	122
" " " 2188	Coring	50
" " " 2189	Parlett.	
" " " 2190	Sharpsburg	77
" " " 2191	Wellston.	
" " " 2192	New Salisbury.	
" " " 2193	Conesville	62
" " " 2194	Hawks.	
226		
" " " 2195	Nelsonville	48
" " " 2201	Bellaire.	
" " " 2203	Coralton	42
" " " 2209	Mechanicstown.	
" " " 2247	Wolf Run	136
" " " 2259	New Philadelphia	50
" " " 2260	Bailes Mills	100
" " " 2261	Jackson.	
" " " 2262	Ratchford.	
" " " 2266	Wellston	47
" " " 2268	Klee.	
" " " 2276	Bellaire	75
" " " 2284	Crooksville.	
" " " 2285	Wellston	160
" " " 2321	Dalton	46
" " " 2322	Navarre	75
" " " 2323	Steubenville.	
" " " 2379	East Greenville	36
" " " 2380	Bridgeport.	
" " " 2381	Shadyside	42
" " " 2386	Glencoe	225
" " " 2387	Fairpoint.	
" " " 2388	Rempel.	
" " " 2389	New Philadelphia	103
227		
" " " 2390	West Lebanon	50
" " " 2391	Mineral City	21
" " " 2392	Middleport	53
" " " 2393	Massillon.	
" " " 2400	Brilliant	21
" " " 2436	Wellston	26
" " " 2440	New Straitsville	41

Local Union No.	Location.	Membership.
" " " 2447	Oakhill.	
" " " 2448	Massillon.	
" " " 2449	Pleasant City	165
" " " 2450	Rutland	82
" " " 2451	Senecaville	210
" " " 2452	New Lexington.	
" " " 2453	Birds Run.	
" " " 2454	Blackford.	
" " " 2457	Buckhorn	58
" " " 2458	Wellston.	
" " " 2459	New Philadelphia	146
" " " 2461	Rosewell	66
" " " 2471	Nelsonville.	
" " " 2481	"	
" " " 2486	Middleport	32
" " " 2525	Massillon	65
" " " 2526	Steele	250
228		
" " " 2527	Ginther.	
" " " 2528	Redfield.	
" " " 2529	Maynard	185
" " " 2530	Santoy.	
" " " 2531	Innland.	
" " " 2559	Nelsonville	50
" " " 2580	Oreton.	
" " " 2581	Ampsterdam	150
" " " 2584	Jackson	18
" " " 2592	Lancing	215
" " " 2593	Nelsonville.	
" " " 2594	Chapman.	
" " " 2595	Dennison.	
" " " 2641	Clinton	137
" " " 2723	Athens.	
" " " 2729	Wellston	32
" " " 2730	Glouster	45
" " " 2735	Rhodesville	300
" " " 2737	Grosvener	202
229		
District No. 7.		
" " " 82	Audenried	28
" " " 163	Kelayres	65
" " " 166	McAdoo.	
" " " 169	"	
" " " 173	Audenried	77
" " " 185	Sugar Loaf	22
" " " 189	W. Hazleton	13
" " " 209	Stockton	12
" " " 250	Milnesville	10
" " " 251	Trasckow.	

Local Union	No.	Location.	Membership.
" "	257	Milnesville.	
" "	700	Hauto	33
" "	803	Hazelton.	
" "	1376	"	
" "	1397	"	
" "	1434	West Hazelton	10
" "	1438	Ebbervale	25
" "	1473	Harwood .	
" "	1494	Beaver Meadow	45
" "	1497	Lattimer Mines	10
" "	1499	Freeland	12
" "	1505	Harwood Mines.	
" "	1506	Hazelton	8

230

" "	1507	Ekley	40
" "	1508	Hazelton.	
" "	1513	Nurenburg	42
" "	1518	Jeddo	48
" "	1519	Griffton	35
" "	1520	Harleigh.	
" "	1521	Upper Leigh.	
" "	1527	Sheppton	124
" "	1536	Coaldale	500
" "	1548	Hazel Brook.	
" "	1549	Tresckow	20
" "	1554	McAdoo	20
" "	1571	Tanque	123
" "	1572	Lansford	210
" "	1595	Mauch Chunk.	
" "	1652	Freeland.	
" "	1653	Sandy Run	25
" "	1665	Summit Hill	244
" "	1687	Seek.	
" "	1704	Nesquehoning	126
" "	1719	Lansford	85
" "	1739	"	80
" "	1745	Summit Hill	17
" "	1902	Ebbervale.	

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" "	1960	Hazelton	15
" "	2047	"	8
" "	2339	W. Hazelton.	
" "	2340	Zehner	10
" "	2476	Hollywood	7
" "	2477	Freeland	12
" "	2533	Audenried.	
" "	2542	Hazelton.	

District No. 8.

Local Union No.	Location.	Membership.
" " " 48	Clay City, Ind.	20
" " " 136	Carbon	140
" " " 214	Brazil.	
" " " 216	"	36
" " " 220	"	
" " " 244	"	320
" " " 249	"	83
" " " 246	Diamond	85
" " " 301	Center Point	40
" " " 337	Diamond	190
" " " 476	Carbon	30
" " " 576	Brazil.	
" " " 629	"	65
" " " 1920	"	
" " " 677	Knightsville	38
232		
" " " 697	Center Point	80
" " " 769	Cardonia	67
" " " 770	Coal City	
" " " 771	Perth	150
" " " 776	Harmony	45
" " " 779	Asherville	75
" " " 883	Coal Bluff	20
" " " 1200	Diamond.	
" " " 1211	Fontanet.	
" " " 1251	Brazil	50
" " " 1325	Diamond	140
" " " 1439	Center Point	39
" " " 1909	Bridgeton	45
" " " 2164	Diamond.	
" " " 2171	Brazil.	
" " " 2444	Saline City	28
" " " 2716	Perth	27
" " " 2765	Coal City	7

District No. 9.

233		
" " " 92	Mahanoy City, Pa.	
" " " 90	Keekscherville	60
" " " 105	Mt. Carmel.	
" " " 110	Renshaw.	
" " " 112	Excelsior.	
" " " 113	Shamokin.	
" " " 115	"	62
" " " 124	Trevorton.	
" " " 160	Shamokin.	
" " " 175	"	8

Local Union No.	Location.	Membership.
" " " 192	Mt. Carmel.....	13
" " " 198	Kiser	835
" " " 204	Shamokin.	
" " " 205	"	
" " " 233	Cumboal.	
" " " 330	Minersville.	
" " " 488	Mt. Carmel.	
" " " 506	Lockus Gap	166
" " " 555	Mt. Carmel	16
" " " 561	Shamokin	68
" " " 579	Mt. Carmel.	
" " " 863	Minersville.	
" " " 866	Mahanoy City.....	55
234		
" " " 863	Minersville.	
" " " 866	Mahanoy City.	
" " " 884	Shamokin	3
" " " 910	Sagon.	
" " " 918	Girardville.	
" " " 933	Mt. Carmel.	
" " " 967	"	14
" " " 968	Shamokin	40
" " " 984	Rendshaw.	
" " " 1023	Shamokin	14
" " " 1049	Sagon.	
" " " 1062	Lykens	140
" " " 1086	Shenandoah	27
" " " 1096	Harry	7
" " " 1105	Morea Collery.	
" " " 1113	Middleport.	
" " " 1126	Mahanoy City.	
" " " 1183	Wilburton.	
" " " 1187	Mahanoy City.	
" " " 1261	Tower City	393
" " " 1320	Gilberton.	
" " " 1333	Mahanoy City	103
" " " 1347	Mt. Carmel.	
" " " 1358	Shenandoah	1033
235		
" " " 1362	Mahanoy City.	
" " " 1385	Gilberton	255
" " " 1398	Lost Creek.	
" " " 1398	Shaft	225
" " " 1403	Shenandoah.	
" " " 1409	New Boston.	
" " " 1451	Connerton.	
" " " 1455	Shamokin	10

Local Union No.	Location.	Membership.
" " " 1464	Girardville	54
" " " 1465	Shenandoah.	
" " " 1467	"	
" " " 1479	Centralia	29
" " " 1500	Mahanoy City	665
" " " 1509	Shenandoah	52
" " " 1510	Mahanoy City	100
" " " 1511	"	90
" " " 1514	Lost Creek	70
" " " 1516	"	
" " " 1517	Ashland	237
" " " 1522	Shenandoah.	
" " " 1532	Raven Run.	
" " " 1533	St. Clair.	
" " " 1534	Heckscherville.	
" " " 1535	Shamokin	35

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" " " 1537	Tuscarora	27
" " " 1540	Buck Mt.	
" " " 1541	Gilberton	106
" " " 1542	Mahanoy Plane	108..
" " " 1543	Shaft	40
" " " 1547	Broad Mountain.	
" " " 1550	Williamstown.	
" " " 1551	Muir	20
" " " 1552	Aristes	13
" " " 1553	St. Nicholas	18
" " " 1557	Minersville	31
" " " 1558	Pine Grove	306
" " " 1559	Silver Creek	18
" " " 1560	Tremont	88
" " " 1561	Donaldson	100
" " " 1562	Potsville	40
" " " 1563	Mahanoy City	98
" " " 1564	Shenandoah	34
" " " 1568	Silver Creek.	
" " " 1570	Branchdale	34
" " " 1577	Connerton	35
" " " 1578	Potsville	10
" " " 1582	Shaft.	
" " " 1583	Heckscherville.	

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" " " 1584	Lockusdale	92
" " " 1585	Port Carbon.	
" " " 1587	Llewelyn	14½
" " " 1588	Lost Creek.	
" " " 1592	Cumbola.	
" " " 1593	Gowan	29

Local Union No.	Location.	Membership.
" " " 1594	Frackville	110
" " " 1596	Cumbola	5
" " " 1597	Suegburg.	
" " " 1598	Middleport.	
" " " 1599	Joliett	95
" " " 1600	Ravine	36
" " " 1604	Heckscherville.	
" " " 1605	Hefenstein.	
" " " 1607	Frackville.	
" " " 1610	Minersville.	
" " " 1618	Shenandoah.	
" " " 1619	"	
" " " 1621	Centralia.	
" " " 1624	Lavella.	
" " " 1626	Mt. Carmel	153
" " " 1628	Hegins	35
" " " 1629	Park Place.	
" " " 1636	Zerbe.	

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" " " 1637	Joliett	45
" " " 1638	Minersville.	
" " " 1639	"	
" " " 1640	"	
" " " 1641	Peoples	56
" " " 1642	Glen Carbon	184
" " " 1651	Wilburton.	
" " " 1660	Valley View	7
" " " 1669	Shamokin.	
" " " 1657	Strong.	
" " " 1659	St. Nicholas	16
" " " 1684	Heckscherville	12
" " " 1685	Shenandoah	61
" " " 1686	Wade	12
" " " 1688	Duncott	40
" " " 1694	Trevelton	7
" " " 1709	Blackwood	42
" " " 1711	Gratz.	
" " " 1721	Pottsville	7
" " " 1725	Shamokin.	
" " " 1728	Aristes	24
" " " 1763	Mount Carmel	50
" " " 1767	Silver Creek	9½
" " " 1781	Mt. Carmel.	

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" " " 1791	Carmel.	
" " " 1838	Gilberton	29
" " " 1846	Keiser.	
" " " 1850	Middleport.	

Local Union No.	Location.	Membership.
" " " 1876	Shenandoah.	
" " " 1886	Mahanoy City	40
" " " 1906	Minersville.	
" " " 1946	Silver Creek.....	60
" " " 1956	Sangon	30
" " " 1961	Minersville	50
" " " 2199	Keiser.	
" " " 2239	Shenandoah	22
" " " 2270	Tuscarora.	
" " " 2346	Shenandoah	87
" " " 2350	St. Clair.....	26
" " " 2420	Shamokin.	
" " " 2541	Minersville.	
" " " 2578	St. Clair.	
" " " 2745	Shamokin.	
240	District No. 10.	
" " " 66	Nanaimo, B. C.....	269
" " " 2257	Black Diamond, Wash.....	690
" " " 2264	Franklin	238
" " " 2362	New Castle.	
" " " 2373	Burnette	132
" " " 2428	Palmer.	
" " " 2489	Kopiah, via Centralia.	
" " " 2491	Melmont, Wash.	
" " " 2510	Royslyn	974
" " " 2512	Cle Elum.....	520
" " " 2520	Cumberland	60
" " " 2610	Ravensdale	141
" " " 2634	Wilkleson	381
241		
" " " 15	Linton, Ind.	
" " " 21	Princeton	166
" " " 23	Terre Haute	90
" " " 24	Rosedale.	
" " " 39	Washington.	
" " " 42	Clinton	318
" " " 53	Shelburn.	
" " " 62	Fontenet	230
" " " 74	Clinton	32
" " " 75	Sullivan	251
" " " 114	Elberfield	29
" " " 117	Terre Haute	46
" " " 130	Clinton.	
" " " 139	Lyfloyd	85
" " " 141	Caygua.	
" " " 155	Bicknell	85
" " " 184	Brazil	225
" " " 190	Linton	95

Local Union No.	Location.	Membership.
" " " 195	Cass	140
" " " 228	Sullivan	
" " " 254	Shelburn	188
" " " 268	Sullivan	128
" " " 277	Turner	90
242		
" " " 352	Bicknell	
" " " 355	W. Terre Haute	
" " " 381	Clinton	220
" " " 390	Evansville	70
" " " 396	Coalman	
" " " 411	Stauton	220
" " " 412	Hymera	241
" " " 414	Edwards	170
" " " 418	Sceelyville	221½
" " " 433	Linton	240
" " " 437	Jasonville	145
" " " 440	Clinton	
" " " 449	Coal Bluff	115
" " " 477	Farnsworth	
" " " 508	Terre Haute	16
" " " 514	Coalmont	
" " " 516	Newburg	43
" " " 520	Bugger	90
" " " 525	Linton	215
" " " 559	Canolburg	82
" " " 625	Linton	163
" " " 656	Oakland City	100
" " " 690	Augusta	166
" " " 713	Muren	25
243		
" " " 719	Jessup	120
" " " 724	Edwards	170
" " " 742	Stauton	78
" " " 749	Silverwood	
" " " 752	Newburg	14
" " " 764	Littles	182
" " " 780	Linton	140
" " " 797	Ayrshire	72
" " " 833	Petersburg	65
" " " 876	Linton	180
" " " 913	"	
" " " 915	Bicknell	
" " " 927	Linton	36
" " " 941	Burnette	
" " " 942	Montgomery	39½
" " " 987	Caledonia	160
" " " 1022	Chandler	45

Local	Union	No.	Location.	Membership
"	"	" 1044	Shelburn	140
"	"	" 1048	Jasonville	100
"	"	" 1050	Boonville.	
"	"	" 1054	Hymera.	
"	"	" 1065	Evansville	50
"	"	" 1136	Turner.	
"	"	" 1171	Evansville	60
"	"	" 1172	Troy	15
"	"	" 1177	Vincennes.	
"	"	" 1230	Farmersburg.	
"	"	" 1233	Boonville	72
"	"	" 1244	"	
"	"	" 1246	Terre Haute.	
"	"	" 1264	Washington	10
"	"	" 1277	Linton.	
"	"	" 1301	"	91
"	"	" 1326	Bicknell	74
"	"	" 1328	Linton	285
"	"	" 1355	Clinton.	
"	"	" 1357	Linton.	
"	"	" 1371	Chandler	70
"	"	" 1383	Linton	180
"	"	" 1414	Brazil	175
"	"	" 1421	Cannelton.	
"	"	" 1452	Evansville	137
"	"	" 1462	Linton	140
"	"	" 1544	Harmony	70
245				
"	"	" 1555	Carlisle	41
"	"	" 1622	Boonville.	
"	"	" 1634	Petersburg.	
"	"	" 1658	Ayrshire	210
"	"	" 1671	Clinton	200
"	"	" 1675	Terre Haute	10
"	"	" 1676	Knightsville	150
"	"	" 1697	St. Marys.	
"	"	" 1698	Bicknell.	
"	"	" 1713	Dugger	127
"	"	" 1720	W. Terre Haute.....	48
"	"	" 1742	Linton	8
"	"	" 1743	Jacksonville	140
"	"	" 1755	Mecca	80
"	"	" 1895	Gilmour	193
"	"	" 1936	Linton.	
"	"	" 1938	Jasonville	44
"	"	" 1952	Raglesville	45
"	"	" 1953	Midland	125

Local Union No.	Location.	Membership.
" " " 1957	Linton.	
" " " 1982	Clinton	240
" " " 1984	Cates	55
" " " 1988	Shelburn.	
" " " 2011	Brazil	90
246		
" " " 2022	Jasonville	40
" " " 2023	Hymera	8
" " " 2024	Jasonville.	
" " " 2061	Clinton	206
" " " 2062	Sullivan.	
" " " 2089	Shelburn	213
" " " 2090	Linton	215
" " " 2121	Jasonville	80
" " " 2122	Atherton	85
" " " 2125	Winslow	70
" " " 2134	Sullivan.	
" " " 2173	W. Terre Haute.	
" " " 2184	Cummins	56
" " " 2196	W. Terre Haute	116
" " " 2215	"	16
" " " 2343	Boonville	116
" " " 2344	"	40
" " " 2382	Shelburn	150
" " " 2411	Bicknell	43
" " " 2412	Linton	157
" " " 2413	W. Terre Haute	64
" " " 2421	Sullivan	16
" " " 2422	Clinton.	
" " " 2423	Linton	107
247		
" " " 2429	Terre Haute	110
" " " 2430	Jasonville.	
" " " 2431	Coalmont	110
" " " 2432	Stauton	240
" " " 2445	Linton	176
" " " 2446	Clinton	280
" " " 2475	Shelburn.	
" " " 2479	Bruceville.	
" " " 2521	Wheatland	90
" " " 2522	W. Terre Haute	137
" " " 2543	Farmersburg.	
" " " 2544	Shelburn.	
" " " 2596	Sullivan.	
" " " 2597	Judson	20
" " " 2598	Farmersburg	157
" " " 2676	Jessup.	
" " " 2689	Sullivan	102

Local Union No.	Location.	Membership.
" " " 2690	Vicksburg	51
" " " 2798	Shelburn	90
" " " 2775	Edwards	170
" " " 2777	Ft. Branch.	

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District No. 12.

" " " 1	Braidwood, Ill.	72
" " " 2	Spring Valley.....	550
" " " 3	Vandererook	255
" " " 4	Carbon Hill.....	215
" " " 11	Coal City.....	361
" " " 22	Pontiac	25
" " " 27	Mt. Pulaski.....	34
" " " 30	Lovington.	
" " " 37	Coal City.....	310
" " " 41	Catlin.	
" " " 43	Spring Valley.....	500
" " " 52	Centralia	820
" " " 57	Marquette	360
" " " 58	Kewanee	170
" " " 67	Breese	253
" " " 86	Vandererook	57
" " " 88	Eldorado	100
" " " 91	Johnston City.	
" " " 94	Moweaqua	102
" " " 98	Du Quoin.....	1067
" " " 99	Belleville	360
" " " 100	Mapleton.	

249

" " " 101	Tana	993
" " " 106	Dunfermline	270
" " " 107	Sunfield	97
" " " 109	Assumption	151
" " " 122	Pocahontas	75
" " " 125	Mt. Olive.	
" " " 146	Divernon	360
" " " 165	Willisville	390
" " " 167	Witt	310
" " " 221	Cable.	
" " " 224	Lincoln	2121
" " " 232	Mascoutah	136
" " " 238	Germantown	66
" " " 240	Marseilles	83
" " " 247	Minonk	154
" " " 264	Riverton	201
" " " 272	Oakwood.	
" " " 275	Fairview	12
" " " 283	Westville	400

Local Union No.	Location.	Membership
291	Toluca	635
297	New Baden.....	375
300	Nilwood	101
303	Millstadt	12
250		
304	Belleville.	
305	Rentchler	80
307	Sorento	100
309	Westville	375
310	Grape Creek.	
312	Muncie	15
317	Springfield	194
320	Westville	260
321	Springfield.	
322	Danville	70
329	Astoria	55
331	Springfield	125
341	Lenzburg	85
343	Sparta	98
344	Greenview	36
347	Springfield	157
348	Danville	420
361	Niantic	65
362	Coal Valley.....	90
366	Cutler	90
368	Cuba	520
375	Bryant.	
388	Clifford	338
251		
409	Westville.	
413	East Springfield.....	192
420	Eldorado.	
438	Equality	14
448	Springfield	262
467	South Wilmington.....	420
468	Fairberry	41
473	La Salle.....	400
474	French Village.....	68
482	Moline	17
491	Auburn	250
492	Springfield	162
493	Springfield	152
494	"	238
503	Westville	500
505	Braceville	91
511	Tilden	232
517	Breeds	30
522	Pekin	145

Local Union No.	Location.	Membership.
" " "	527 Litchfield	116
" " "	532 Collision.	
" " "	535 Kramm.	
" " "	563 East Peoria.....	114
252		
" " "	565 Equality	82
" " "	567 Springfield	150
" " "	572 Du Bois.....	78
" " "	575 Pinekneyville	213
" " "	578 Virden	94
" " "	598 Lincoln	141
" " "	600 Cantrell	127
" " "	605 Murphysboro	212
" " "	611 Sparta	71
" " "	612 Mt. Vernon.....	31
" " "	618 Peru	158
" " "	620 La Salle.....	240
" " "	621 Sandoval.	
" " "	633 Athens	155
" " "	644 Hillsboro	190
" " "	646 Taylorville	290
" " "	649 La Salle	320
" " "	650 Edwards	105
" " "	651 Rutland	124
" " "	654 Tallula	44
" " "	655 Chatham.	
" " "	657 Du Quoin.	
" " "	658 Percy	225
253		
" " "	659 Sparta	161
" " "	661 Hanna City.....	56
" " "	663 Coulterville.	
" " "	668 Warden	300
" " "	672 Petersburg	75
" " "	675 Nashville.	
" " "	683 Murphysboro	340
" " "	685 Collision	991½
" " "	686 Glen Carbon	475
" " "	687 Freeburg	236
" " "	688 Belleville.	
" " "	691 Troy	370
" " "	693 Virden	399
" " "	694 Girard	240
" " "	696 Galatia	40
" " "	701 Belleville	70
" " "	702 Carlinville	94
" " "	703 O'Fallon	200
" " "	704 Tarenton	400

Local Union No.	Location.	Membership.
" " " 705	O'Fallon	423
" " " 706	French Village.....	415
" " " 707	Bartonville	225
" " " 709	Salem.	
254		
" " " 711	Johnston City.....	200
" " " 712	Edinburg	23
" " " 715	Odin	235
" " " 717	Marion	232
" " " 720	Staunton	402
" " " 721	Pleasant Plains.	
" " " 726	Winona	225
" " " 728	Mt. Olive.....	595
" " " 730	Gillespie	600
" " " 731	Springfield	193
" " " 732	Pottstown	54
" " " 734	Peoria.	
" " " 736	Dalzell	515
" " " 737	La Salle	250
" " " 739	Littelton.	
" " " 734	Lebanon	246
" " " 744	Bartonville	120
" " " 745	Pawnee	363
" " " 746	De Soto.	
" " " 748	Braceville	150
" " " 750	Belleville	225
" " " 753	Bloomington	284
" " " 754	Riverton	260
255		
" " " 755	Staunton	978
" " " 757	Elkville	278
" " " 758	Ledford	142
" " " 763	Greenridge	195
" " " 765	Breese	250
" " " 766	Herrin.	
" " " 777	Braceville.	
" " " 781	Decatur	241
" " " 784	Marissa	450
" " " 792	Norris	200
" " " 794	Eldorado	174
" " " 798	Harrisburg	201
" " " 800	Streeter	788
" " " 807	Selbytown	55
" " " 815	Lincoln	340
" " " 820	Edwardsville	145
" " " 821	Clark City.....	56
" " " 822	Johnston City.	
" " " 826	Barclay	150
" " " 834	Spalding	140

Local Union No.	Location.	Membership.
" " " 843	Harrisburg	182
" " " 848	Collinsville	348
" " " 850	Dawson	130
" " " 859	Belleville	450
256		
" " " 860	St. David	270
" " " 892	Kingston Mines	140
" " " 893	Canton	400
" " " 895	Roanoke	175
" " " 909	Mapleton	37
" " " 923	Walcott.	
" " " 929	Oglesby	370
" " " 931	Seatonville	570
" " " 944	Herrin	437
" " " 946	Farmington	422
" " " 948	Oakwood.	
" " " 951	Ledford	127
" " " 952	Braceville	323
" " " 959	Petersburg	131½
" " " 974	Athens	135
" " " 980	Coffeen	223
" " " 982	Reeves	88
" " " 986	Herrin	381
" " " 992	Kangley	240
" " " 996	Braidwood	100
" " " 997	Springfield	142
" " " 998	Harrisburg	101
" " " 999	Springfield	259
257		
" " " 1011	Colfax	49
" " " 1014	Elmwood	46
" " " 1040	Harrisburg	180
" " " 1051	Ladd	504
" " " 1053	Ellisville	46
" " " 1055	Reeves	145
" " " 1057	Colchester	54
" " " 1059	Carrier Mills	96
" " " 1064	Morris.	
" " " 1085	Cardiff	375
" " " 1090	New Athens.	
" " " 1091	Pierce	94
" " " 1098	Reeves	108
" " " 1101	Braidwood	100
" " " 1104	Sherrard	260
" " " 1108	Granville	220
" " " 1112	Carrier Mills.	
" " " 1115	Springfield	114
" " " 1117	Marion	36
" " " 1144	Carterville	90

Local Union	No.	Location.	Membership.
"	"	" 1146	" 190
"	"	" 1151 Benton	102
"	"	" 1193 Brereton	290
"	"	" 1202 Danville.	
258			
"	"	" 1207 Tamaroa.	
"	"	" 1213 Farmington	265
"	"	" 1228 Dewmaine	253
"	"	" 1237 Sesser	86
"	"	" 1239 Johnston City.	
"	"	" 1248 Herrin	400
"	"	" 1254 St. Johns.	
"	"	" 1273 Carterville	94
"	"	" 1356 Georgetown	300
"	"	" 1380 Marion	278
"	"	" 1391 Thayer	400
"	"	" 1394 Diamond	160
"	"	" 1425 Sparland	73
"	"	" 1449 Eldorado	110
"	"	" 1454 Johnston City	100
"	"	" 1458 Peoria	70
"	"	" 1459 Marion	57
"	"	" 1466 Herrin.	
"	"	" 1470 Benton	32
"	"	" 1471 Springfield	90
"	"	" 1475 Panama	250
"	"	" 1484 Nokomis	47
"	"	" 1490 Coal Valley.	
259			
"	"	" 1523 La Salle.	
"	"	" 1615 Herrin	120
"	"	" 1632 Springfield	70
"	"	" 1677 Eldorado	18
"	"	" 1722 Oglesby.	
"	"	" 1749 Westville.	
"	"	" 1754 Mechanicsburg.	
"	"	" 1795 Herrin	82
"	"	" 1802 Maryville	382
"	"	" 1821 Sparta.	
"	"	" 1839 Cornell.	
"	"	" 1840 Oakwood.	
"	"	" 1865 Eldorado	24
"	"	" 1880 Marion	405
"	"	" 1882 Equality	22
"	"	" 1893 Witt	110
"	"	" 1908 Auburn	162
"	"	" 1911 Springfield	113
"	"	" 1941 Johnston City.	198
"	"	" 1944 Danville	252

Local Union No.	Location.	Membership.
" " " 1971	West Frankfort	44
" " " 2040	Johnston City.	
" " " 2109	Carrier Mills.....	153
260		
" " " 2119	Smithboro	25
" " " 2129	Marion.	
" " " 2133	De Soto.....	101
" " " 2158	Tower Hill.....	107
" " " 2177	Harrisburg	114
" " " 2212	Middletown	120
" " " 2215	Johnston City.	
" " " 2216	Marion	205
" " " 2219	Gillespie	350
" " " 2221	Benton	245
" " " 2307	Granville	455
" " " 2368	Murphysboro	64
" " " 2376	Christopher	149
" " " 2384	Gilchrist	260
" " " 2385	Springfield	171
" " " 2403	"	125
" " " 2404	Virden	304
" " " 2416	Farmersburg.	
" " " 2441	Springfield	200
" " " 2443	Blue Mound.	
" " " 2476	Danville.	
" " " 2468	Christopher	165
" " " 2469	Carterville	82
261		
" " " 2488	Winchester	40
" " " 2513	Taylorville	298
" " " 2514	Shiloh	204
" " " 2515	Harrisburg	200
" " " 2553	Springfield	280
" " " 2554	White Ash.....	240
" " " 2555	Bush	228
" " " 2556	Carterville	145
" " " 2562	Springfield	13
" " " 2619	Beckmeyer	225
" " " 2621	Herrin	203
" " " 2622	Decatur	212
" " " 2647	Tice	67
" " " 2650	Harrisburg	100
" " " 2651	Craigs	52
" " " 2654	Auburn	211
" " " 2656	Livingston.	
" " " 2657	West Frankfort.	
" " " 2678	Harrin	71
" " " 2679	Hillsboro	133

Local Union No.	Location.	Membership.
" " " 2703	Johnston City.....	62
" " " 2704	Marion	52
" " " 2705	Stonington	121
262		
" " " 2706	South Wilmington.....	435
" " " 2707	Benld	500
" " " 2708	Belleville	340
" " " 2709	Norris City.....	36½
" " " 2710	Worden	183
" " " 2711	Cherry	371
" " " 8617	Spring Valley.....	410
263	District No. 13.	
" " " 10	Valley Junction, Iowa.....	92
" " " 55	Des Moines.....	253
" " " 56	Colfax	351
" " " 69	Bussey	18
" " " 97	Oskaloosa	74
" " " 152	Ottumwa	165
" " " 154	Ottumwa	6
" " " 159	Harkes	98
" " " 172	Foster	135
" " " 178	Beacon	108
" " " 201	Brazil	221
" " " 206	Seymour	300
" " " 239	Clarksdale	83
" " " 242	Avery	14
" " " 318	Ankeny	71
" " " 323	Lakonta.	
" " " 325	Lost Creek.	
" " " 326	Rose Hill.....	91
" " " 372	Rathbun.	
" " " 384	Des Moines.....	226
" " " 387	Jerome	95
264		
" " " 392	Ft. Dodge, Iowa.....	132
" " " 407	Altoona	55
" " " 426	Beacon	89
" " " 534	Flagler	75
" " " 536	Hamilton.	
" " " 553	Centerville	857
" " " 594	Mapleton, Mo.	
" " " 634	Mystic, Iowa	671
" " " 662	Crickets	80
" " " 671	Seevers	353
" " " 692	Hickory	120
" " " 775	Cincinnati	377
" " " 783	Mendota	129

Local Union No.	Location.	Membership.
" " " 790	Eddyville	90
" " " 793	Albia	115
" " " 799	Lucas.	
" " " 812	Exline	176
" " " 841	What Cheer.	
" " " 845	Norwoodville	255
" " " 851	Marquissville.	
" " " 855	Lehigh	80
" " " 869	Boone	430
265		
" " " 875	Numa	306
" " " 903	Laddsdale	43
" " " 916	Hiteman	700
" " " 949	Altoona	184
" " " 958	Blackbird, Mo	38
" " " 981	Bussey, Iowa.....	411
" " " 991	Angus	40
" " " 1039	Fraser.	
" " " 1042	Des Moines	186
" " " 1047	S. Des Moines.....	125
" " " 1063	Centerville.	
" " " 1080	Des Moines.....	90½
" " " 1110	Dawson	16
" " " 1119	Diamond.	
" " " 1120	Cleveland	120
" " " 1121	Hocking	500
" " " 1140	Des Moines.....	121
" " " 1178	Buxton	36
" " " 1265	Otley	10
" " " 1318	Coalfield	60
" " " 1504	Des Moines.	
" " " 1573	Ankeny	239
" " " 1603	Diamond	44
" " " 1606	Olivet	14
266		
" " " 1616	Kemigala	20
" " " 1655	Eveland	26
" " " 1692	Runnells	24
" " " 1715	Coin.	
" " " 1727	Hilton.	
" " " 1761	Madrid	162½
" " " 1799	Buxton	1252
" " " 1868	Fraker	119
" " " 1873	Centerville	54
" " " 1904	New Market.	
" " " 1907	Des Moines.....	170
" " " 1932	Evans	139

Local Union No.	Location.	Membership.
" " " 1933	Chariton.	
" " " 1948	Dunreath.	
" " " 1958	Knoxville	24
" " " 1993	Pella	12
" " " 2074	Clarinda.	
" " " 2140	White City	151
" " " 2341	Centerville	117
" " " 2433	Ogden	43
" " " 2460	Madrid.	
" " " 2470	Des Moines.	
" " " 2482	Bussey	148

267

" " " 2511	Enterprise	334
" " " 2547	Gwin	47½
" " " 2645	Rutledge	244
" " " 2652	Darbyville	43½
" " " 2741	Hynes	420
" " " 2768	Moingona.	
" " " 2988	Plano	64

District No. 14.

" " " 33	Mulberry, Kan.....	120
" " " 40	Pittsburg	45
" " " 70	Pittsburg.	
" " " 85	Steppeville.	
" " " 127	Chicopee	350
" " " 135	Frontenac	190
" " " 210	Weir	268
" " " 219	Pittsburg	317
" " " 273	Columbus	250
" " " 405	Curranville.	
" " " 434	Pittsburg.	
" " " 444	Frontenac	510
" " " 445	Pittsburg	100
" " " 447	Coal Vale.....	26

268

" " " 469	Fleming.	
" " " 498	Cherokee.	
" " " 501	Curranville	150
" " " 528	Weir	70
" " " 533	Midway	120
" " " 544	Seranton	150
" " " 569	Mineral	530
" " " 588	Mulberry	186
" " " 589	Yale	200
" " " 597	Scammon	345
" " " 723	Weir City.	

Local Union No.	Location.	Membership
" " " 735	Pittsburg	125
" " " 760	Seammon	135
" " " 902	Panama, Mo.....	190
" " " 960	Fuller, Kan.....	110
" " " 1000	Foster, Mo.....	39
" " " 1009	Osage City, Kan.....	309
" " " 1074	Burlingame	140
" " " 1088	Cherokee	73
" " " 1094	Skidmore.	
" " " 1224	Rich Hill, Mo.	
" " " 1283	Pleasanton, Kan.....	23
" " " 1288	W. Mineral.....	225
" " " 1294	W. Mineral.	
269		
" " " 1453	Minden Mines, Mo.	
" " " 1469	Arcadia, Kan.	85
" " " 1580	Pittsburg	171
" " " 1661	Weir	90
" " " 1674	Weir	90
" " " 1701	Osage City.....	20
" " " 1765	Stone City.	
" " " 1776	Minden Mines, Mo.	
" " " 1788	Cherokee, Kan.....	40
" " " 1790	Pleasanton	52
" " " 1820	Roseland	92
" " " 1822	Pittsburg	164
" " " 1835	Pittsburg	42
" " " 1870	Minden Mines, Mo.....	100
" " " 1884	Curranville, Kan.	
" " " 1890	Pittsburg	70
" " " 1922	Mulberry	183
" " " 1990	Mulberry	140
" " " 1991	Mulberry	45
" " " 2179	Englevale	50
" " " 2286	Chicopee	350
" " " 2289	Weir	80
" " " 2333	Arcadia	19
" " " 2366	Fuller.	
270		
" " " 2371	Mineral	160
" " " 2377	Burlingame	60
" " " 2425	Mineral.	
" " " 2455	Girard.	
" " " 2498	Pittsburg	45
" " " 2524	Cherokee	20
" " " 2620	Fleming	100
" " " 2635	Pittsburg.	
" " " 2637	Cherokee	60

Local Union No.	Location.	Membership.
" " " 2662	Corona	102
" " " 2743	Pittsburg.	
" " " 2755	Pittsburg.	
" " " 2757	Arcadia.	
" " " 2771	Pittsburg	65
District No. 15.		
" " " 84	Superior, Colo.....	150
" " " 161	Broomfield	157
" " " 399	Pike View.	
" " " 451	Crested Butte.....	118
" " " 1082	Downer	95
" " " 1388	Lafayette	525
" " " 1417	Erie	134
" " " 1662	Curtis	60
271		
" " " 1668	Louisville	604
" " " 1772	Palisades.	
" " " 1860	Moneco, N. M.....	26
" " " 1913	Louisville, Colo.	
" " " 1970	Williamsburgh	30
" " " 2060	New Castle	25
" " " 2170	Lumberton, N. M.	
" " " 2372	Trinidad, Colo.	
" " " 2409	Coal Creek	45
" " " 2483	Gorham.	
" " " 2502	Lafayette.	
" " " 2546	Brookside	25
" " " 2617	Colo. Springs.	
District No. 16.		
" " " 25	Berlin, Pa.	
" " " 148	Lonaconing, Md.	120
" " " 391	Garrett.	
" " " 504	Frostburg, Md.	
" " " 610	Keim.	
" " " 635	Vale Summit, Md.	20
" " " 888	Meyersdale, Pa.	7
" " " 1092	Midland, Md.	
272		
" " " 1253	Garrett, Pa.	
" " " 1889	Caselman.	
" " " 2063	W. Salisbury	7
" " " 2142	Barton, Md.	
" " " 2176	Elkhart Mines.	
" " " 2487	Lonaconing.	
" " " 2747	Carlos.	

District No. 17.

Local Union No.	Location.	Membership.
" " " 128	Mahon, W. Va.	48
" " " 225	Independence	95
" " " 237	Tunnelton	175
" " " 263	Mucklow	62
" " " 267	Ash Camp.	
" " " 271	Dorfee	35
" " " 285	Montgomery	71
" " " 315	Williamsport, Ky.	18
" " " 333	Scottford, W. Va.	73
" " " 404	Mammoth.	
" " " 475	Bancroft.	
" " " 537	East Bank	25
" " " 545	Mt. Caron.	
" " " 546	Hernshaw	28
" " " 636	Handley	14
273		
" " " 660	Smithers	52
" " " 722	Standard	90
" " " 810	Cambria.	
" " " 887	Flemington	41
" " " 979	Welch	10
" " " 1007	Eagle	30
" " " 1030	Porter	17
" " " 1037	Carbondale	76
" " " 1038	Gamoca	122
" " " 1179	Olcott	40
" " " 1209	Crown Hill	55
" " " 1227	Montgomery	40
" " " 1255	Boomer.	
" " " 1267	Burnwell.	
" " " 1276	Boomer.	
" " " 1292	Cannelton	85
" " " 1316	Denver.	
" " " 1327	Hugheston.	
" " " 1345	Bretz.	
" " " 1350	Winifrede.	
" " " 1448	Longacre	52
274		
" " " 1461	Mt. Carbon	16
" " " 1673	Hartford.	
" " " 1764	Mucklow	112
" " " 1808	Elkridge	20
" " " 1831	Boomer	178
" " " 1851	Howesville.	
" " " 1869	Longacre	110
" " " 1925	Pond Gap	54

Local Union No.	Location.	Membership.
" " " 1931	Donwood	72
" " " 1950	Montgomery	30
" " " 1977	Eagle.	
" " " 2005	Dungriff.	
" " " 2013	Ronda.	
" " " 2014	Raymond City	20
" " " 2015	Plymouth	109
" " " 2018	Harewood	87
" " " 2032	Powelton	30
" " " 2033	Richard.	
" " " 2037	Shrewsbury.	
" " " 2038	Coalburg	10
" " " 2067	Handley.	
" " " 2069	Lewiston.	
" " " 2075	Chilton.	
275		
" " " 2120	Black Betsey	150
" " " 2157	Dry Branch.	
" " " 2172	Marting.	
" " " 2197	Monarch	40
" " " 2207	Mucklow.	
" " " 2236	Winifrede	135
" " " 2237	Vanetta.	
" " " 2315	Wyndal	35
" " " 2316	Irona.	
" " " 2320	Montgomery.	
" " " 2329	Quincy	42
" " " 2330	Hiorra.	
" " " 2347	Putney.	
" " " 2348	Ferris.	
" " " 2356	Crown Hill	29
" " " 2358	Burnwell	108
" " " 2474	Tomsburg.	
" " " 2480	Cedar Grove.	
" " " 2570	Winter.	
" " " 2582	Quick	17½
" " " 2681	Ward	103
276		
District No. 18.		
" " " 29	Bankhead, Alta., Can.	404
" " " 102	Taber, Alta., Can.	
" " " 431	Belleville, Frank, Alta.	
" " " 574	Leithbridge, Alta.	230
" " " 1058	Hillcrest, Frank, Alta.	105
" " " 1233	Lille, Alta.	148
" " " 1263	Frank, "	
" " " 1387	Cammere, "	199
" " " 1959	Taber, "	

Local Union No.	Location.	Membership.
" " " 2178	Leithbridge, "	
" " " 2275	Lundbreck, "	
" " " 2299	Woodpecker, Taber, Alta.	
" " " 2314	Fernie, B. C.	906
" " " 2334	Michel, B. C.	848
" " " 2378	Morenville, Edmonville, Alta.	99
" " " 2497	Hasmer, B. C.	
" " " 2540	Edmonton, Alta.	98
" " " 2633	Coalman, Alta.	342

District No. 19.

" " " 5	Pittsburg, Ky.	30
" " " 103	Mt. Ash.	158
" " " 119	Strunk.	64
" " " 157	Wooldridge, Tenn.	90
277		
" " " 253	Wooldridge.	112
" " " 287	Whitwell.	
" " " 351	East Berenstadt, Ky.	15
" " " 485	Trooper.	
" " " 510	Tracey City, Tenn.	
" " " 604	Barrenfork, Ky.	100
" " " 667	Petrose, Tenn.	160
" " " 674	Indian Head, Ky.	26
" " " 684	Flat Rock.	35
" " " 725	Gatiliff, Tenn.	
" " " 733	Kensee, Ky.	143
" " " 806	Altamont.	100
" " " 832	Sale Creek, Tenn.	
" " " 890	Soddy.	474
" " " 912	Parkers Lake.	
" " " 1028	Straight Creek, Ky.	260
" " " 1032	Wallsend.	
" " " 1087	Pittsburg.	59
" " " 1189	Jellico, Tenn.	
" " " 1304	Fogal.	50
" " " 1308	Pittsburg, Ky.	53
" " " 1313	Almy, Tenn.	28
" " " 1416	Alpine, Ky.	
" " " 1485	Glenmary, Tenn.	
278		
" " " 1586	Four Mile, Ky.	34
" " " 1631	Helenwood, Tenn.	34
" " " 1702	Indian Head, Ky.	93
" " " 1733	Carey.	40
" " " 1783	Halsey.	

Local Union No.	Location.	Membership.
" " " 1899	Wooldridge, Tenn.	
" " " 1915	"	32
" " " 2132	Jellico.	
" " " 2217	Flat Lick, Ky.	114
" " " 2218	Almy, Tenn.	
" " " 2427	E. Bernstadt, Ky.	26
" " " 2485	Coalmont, Tenn.	
" " " 2493	Viva, Ky.	
" " " 2640	Meeks, Tenn.	
" " " 2781	Fogal	44
District No. 20.		
" " " 181	Belle Ellen, Ala.	24
" " " 227	Palos.	
" " " 229	Blockton.	
" " " 332	Straven.	
" " " 367	Aldridge	105
" " " 393	Hargrove	52
" " " 401	Lewisburg	211½
" " " 423	Belle Ellen	83
" " " 432	Hargrove	68
279		
" " " 465	Kimberly	125
" " " 497	Lehigh.	
" " " 507	Superior.	
" " " 557	Sligo.	
" " " 585	Groves.	
" " " 503	Maylene.	
" " " 627	Stouts Mountain.	50
" " " 664	Pratt City.	
" " " 759	Altoona.	
" " " 772	Palos.	
" " " 823	Coal City.	82
" " " 653	Sligo.	
" " " 856	Brookwood	200
" " " 878	Warrior.	
" " " 1103	Albernant.	
" " " 1114	Coal City.	149
" " " 1128	Ragland.	
" " " 1161	Coal City.	55
" " " 1169	Gurnee	130
" " " 1290	Kimberly.	
" " " 1312	Warrior.	
" " " 1341	Blossburg.	
" " " 1343	Kinson.	
" " " 1406	Aubrey	85

Local Union No.	Location.	Membership.
" " " 1408	Garnsey	118
" " " 1423	Warrior.	
" " " 1424	"	
" " " 1525	Searles	179
" " " 1579	Blockton	30
" " " 1646	Coleanor.	
" " " 1654	Searles	108
" " " 1734	Altoona	130
" " " 1757	Sta. Mt.	112
" " " 1817	Garnsey	84
" " " 1828	Piper	255
" " " 1841	Blockton	128
" " " 1872	Cane Creek.	
" " " 1916	Blockton.	
" " " 1921	Helena.	
" " " 1967	Warrior.	
" " " 2141	Blockton.	
" " " 2214	Abernant.	
" " " 2269	Piper	100
" " " 2302	Bessemer	100
" " " 2464	Coleanor	89
" " " 2465	Coalburg	25
" " " 2490	Warrior.	
" " " 2639	Cardiff.	
" " " 2643	Seloca.	

" " " 2674	Morris	131
" " " 2756	Brookwood.	

District No. 21.

" " " 17	Alderson, Oko.	165
" " " 31	Craig	80
" " " 197	Henryeth	42
" " " 306	Hartford, Ark.	
" " " 340	Midland	24½
" " " 360	Henrietta, Oko.	
" " " 398	Red Oak	63
" " " 486	Witteville.	
" " " 543	Midway.	
" " " 560	Hackett, Ark.	11
" " " 571	Montana	115
" " " 586	Huntington	331
" " " 613	Bates	26
" " " 642	Schulter, Oko.	57
" " " 787	Bridgeport, Texas.	160
" " " 817	Savanna, Oko.	

Local Union No.	Location.	Membership.
" " " 874	Panama	65
" " " 894	Lyra, Texas.	372
" " " 938	Archabald, Oko.	
" " " 989	Alex, Ark.	112
" " " 1006	Archabald, Oko.	
" " " 1026	Coalgate	376
282 " " " 1116	Paris, Ark.	140
" " " 1127	Wilburton, Oko.	238
" " " 1130	Montreal, Ark.	
" " " 1153	Hughes, Oko.	
" " " 1164	Savana	48
" " " 1170	Chant	371
" " " 1176	Haileyville.	
" " " 1191	Coalgate	190
" " " 1199	Bonanza, Ark.	220
" " " 1258	Alderson, Oko.	81
" " " 1284	Hortshorn	210
" " " 1303	Savana	82
" " " 1306	Adamson	131
" " " 1315	Ft. Smith, Ark.	183
" " " 1354	Russelville	80
" " " 1501	Midland.	
" " " 1526	Hartford.	
" " " 1530	Paris	58
" " " 1539	Hartford.	
" " " 1556	Russelville	89
" " " 1565	Prairie Creek.	
" " " 1777	Gowen, Oko.	120
" " " 1778	Pocahontas.	
" " " 1780	Krebs.	
283 " " " 1805	McAlester.	
" " " 1810	Lind, Ark.	300
" " " 1811	Phillips, Oko.	236
" " " 1814	Altus, Ark.	277
" " " 1816	Alderson, Oko.	150
" " " 1818	North McAlester	66
" " " 1819	Lehigh	432
" " " 1824	Hartford, Ark.	21
" " " 1842	Greenwood	50
" " " 1856	Edwardsville, Oko.	87
" " " 1864	Wilburton	184
" " " 1912	Hartford, Ark.	100
" " " 1934	Carbon, Oko.	21
" " " 1949	Montreal, Ark.	
" " " 1974	Russelville	46
" " " 1983	Blocker, Oko.	14

Local Union No.	Location.	Membership.
" " " 2027	Denning, Ark.	32
" " " 2028	Howe, Okla.	57
" " " 2053	Spadra, Ark.	
" " " 2070	Dowe, Okla.	180
" " " 2084	Hughes	100
" " " 2097	Hartshorn	126
" " " 2110	Hartford, Ark.	55
" " " 2111	Lutie, Okla.	109
" " " 2131	Wilburton.	
284		
" " " 2160	Coalhill, Ark.	170
" " " 2165	Carbon, Okla.	60
" " " 2208	Bache.	
" " " 2220	Sutter	60
" " " 2277	Krebs	170
" " " 2283	Gowen	160
" " " 2287	Henryetta	26
" " " 2317	McAlaster	107
" " " 2327	Krebs.	
" " " 2332	Henryetta	142
" " " 2369	Williams	85
" " " 2407	Huntington, Ark.	215
" " " 2442	Henryetta, Okla.	105
" " " 2466	Bridgeport, Texas.	100
" " " 2492	Scales, Okla.	16
" " " 2494	Huntington, Ark.	
" " " 2505	Chambers, Okla.	
" " " 2518	Adamson	6
" " " 2534	Midland, Ark.	
" " " 2535	Strawn, Texas.	182
" " " 2537	Rock Creek	80
" " " 2538	Thurber	598
" " " 2557	Henryetta, Okla.	82
" " " 2566	Alix, Ark.	176
285		
" " " 2567	Coaldale.	
" " " 2608	North McAlaster, Okla.	50
" " " 2615	Greenwood, Ark.	132
" " " 2644	Dowe, Okla.	
" " " 2660	Bokoshe	100
" " " 2749	Wilburton.	
" " " 2759	Chambers.	
" " " 2763	Thurber, Texas.	494
" " " 2766	Greenwood, Ark.	165
" " " 2769	Hartford	64
" " " 2770	Hartford.	
" " " 2772	Hackett	12
" " " 2773	Clarksville	89

6

District No. 22.

Local Union No.	Location.	Membership.
" " " 230	Monarch, Wyo.	399
" " " 370	Belt, Mon.	269
" " " 1070	Gebo	84
" " " 1340	Bridger	102
" " " 1729	Bear Creek, Red Lodge.	
" " " 1771	Red Lodge	613
" " " 1989	Chimney Rock.	
" " " 2020	Sand Coulle	210
" " " 2046	Chestnut	126
" " " 2055	Dietz, Wyo.	207
" " " 2174	Rock Springs	400
" " " 2282	Rock Springs	248
" " " 2293	"	585
" " " 2301	Stockett, Mont.	467
" " " 2309	Rock Springs, Wyo.	412
" " " 2311	Almy	173
" " " 2312	Dietz	542
" " " 2318	Richard Dexter	333
" " " 2325	Sweet Water	184
" " " 2328	Superior	195½
" " " 2331	Okley	162
" " " 2335	Hanna	669
" " " 2336	Diamondville	191
" " " 2337	Cumberland	286

7

" " " 2360	Frontier	595½
" " " 2361	Glencoe	227½
" " " 2365	Monarch	46
" " " 2516	Rock Springs.	
" " " 2532	Cambria	434
" " " 2550	Storrs, Mont.	88
" " " 2575	Havre	33
" " " 2579	Fromberg.	
" " " 2588	Lewiston	64
" " " 2591	Glen Rock, Wyo.	
" " " 2742	Carneyville	275

8

District No. 23.

" " " 72	Island, Ky.	
" " " 174	Cleaton	100
" " " 188	Peach Creek.	
" " " 328	Spottsville	96
" " " 356	Owensboro	60
" " " 419	Fortsville.	
" " " 427	Sullivan.	
" " " 487	McHenry	172
" " " 602	Central City	220

Local Union No.	Location.	Membership.
" " " 607	Hillside	64
" " " 630	Island	90
" " " 631	Taylor Mine	224
" " " 645	Island	110
" " " 665	McHenry	126½
" " " 666	Render	105
" " " 669	Bevier	114
" " " 678	Echols	114
" " " 680	Drakesboro	112
" " " 681	Hillside	112
" " " 682	Dowderly.	
" " " 608	Morganfield.	
" " " 716	Cleaton	124
" " " 809	McHenry	178
" " " 852	Coffman	34
289		
" " " 953	Etnaville.	
" " " 1021	Henderson.	
" " " 1068	Lewisport.	
" " " 1093	Broder	65
" " " 1124	Dekoben	203
" " " 1125	Hillside.	
" " " 1149	Caseyville	34
" " " 1152	Baskett	118½
" " " 1234	Aberdeen.	
" " " 1282	Dekoven	44
" " " 1289	Cleaton	90
" " " 1309	Morganfield	36½
" " " 1404	Uniontown.	
" " " 1476	Aberdeen.	
" " " 1491	South Carlton.	
" " " 1630	Depoy	236½
" " " 1844	Bluff City	32
" " " 1862	Central City	96
" " " 1894	Henderson.	
" " " 1935	Drakesboro	76
" " " 2139	Reynolds Station.	
" " " 2166	Central City	102
" " " 2370	Hillside.	
" " " 2572	Drakesboro	79
290		
" " " 2613	Grahn	240
" " " 2754	Waverly	60

District No. 24.

" " " 87	Bay City, Mich.	155
" " " 129	Saginaw	160
" " " 137	Bay City	

Local Union No.	Location.	Membership.
" " 207	Saginaw	129
" " 294	Saginaw	140
" " 342	St. Charles	175
" " 840	Bay City	44
" " 1008	West Bay City.	
" " 1018	St. Charles	200
" " 1166	Bay City	275
" " 1203	" "	190
" " 1222	Saginaw	114
" " 1307	Jackson.	
" " 1348	Saginaw	20
" " 1379	Bay City	70
" " 1415	Saginaw	65
" " 1419	Carrollton	51
" " 1567	Saginaw	145
" " 1574	Bay City	148
" " 1608	St. Charles	100
01		
" " 1625	Corrunna.	
" " 1927	Jackson.	
" " 2130	West Bay City	19
" " 2414	Saginaw	190
" " 2415	Saginaw	53
" " 2462	St. Charles	78
" " 2463	Bay City	75
" " 2664	Bay City.	
2	District No. 25.	
" " 65	Keota, Mo.	
" " 80	Vandalia	24
" " 104	Camden	101
" " 149	Morberly	44
" " 171	Lexington	764
" " 177	Marceline	184
" " 258	Danforth	19
" " 262	Stahl.	
" " 286	Lexington.	
" " 298	Richmond	690
" " 313	Yates.	
" " 354	East Higbee.	
" " 377	Higensville	390
" " 380	Missouri City	105
" " 382	Lingo	210
" " 679	Leavenworth, Kans.	
" " 919	Bevier, Mo.	654
" " 947	Orrick	130
" " 954	Higbee.	
" " 956	Ardmore	307
" " 1041	Elliott.	

Local Union No.	Location.	Membership.
" " " 1067	Dover	18
" " " 1071	Brownington	46
293		
" " " 1073	Deep Water	70
" " " 1089	Waverly	45
" " " 1135	Huntsville.	
" " " 1143	Renick.	
" " " 1182	Coatsville	54
" " " 1226	Novinger	336
" " " 1231	Wellington	108
" " " 1274	Martinsburg	25
" " " 1400	Cordor	168
" " " 1429	Leavensworth, Kas.	
" " " 1442	Novinger, Mo.	179
" " " 1443	Perry	33½
" " " 1444	Stahl	42
" " " 1472	Napoleon	14
" " " 1512	Farber.	
" " " 1611	Leavensworth, Kas.	160
" " " 1827	Lexington, Mo.	324
" " " 1847	Connellsville	209
" " " 1848	Leavensworth, Kas.	
" " " 1867	Salisbury, Mo.	28
" " " 1074	Richmond	28
" " " 1875	Brookfield	58
" " " 918	Keota.	
294		
" " " 1928	Camden	79
" " " 1942	Novinger	170
" " " 2039	Chilhowee	22
" " " 2108	Vibbard	19
" " " 2124	Novinger	11
" " " 2143	Marceline	115
" " " 2159	Moberly.	
" " " 2161	Huntsville.	
" " " 2175	Atchison, Kas.	
" " " 2205	Novinger, Kas.	87
" " " 2225	Lexington.	
" " " 2675	Yates.	
" " " 2614	Windsor	209
" " " 2649	Higbee.	
" " " 2744	Keota	195½

295 Cross-examination.

Questions by J. H. RALSTON, Esq.:

117 Q. In Mr. Mitchell's position as president of the United Mine Workers and presiding over the meetings, is his attention frequently

called off from his official duties as presiding officer? A. Yes, very often.

118 Q. Is it common for people to approach him with different requests and suggestions, or asking for instructions? A. It is, yes sir.

119 Q. And while he is presiding at the convention? A. Yes sir.

120 Q. Now, can you state that being the fact whether Mr. Mitchell heard read the text of the Buck Stove and Range boycott resolution presented at the convention last January, and to which Mr. Davenport has alluded? A. No, I cannot say positive that he heard the resolution read.

121 Q. Can you say he knew or did not know the purport of the particular resolution which he at that time submitted to a vote? A. I cannot say positively that he did or did not. I cannot say positively that he was in the chair at the time the resolution was
296 submitted to the convention.

122 Q. State whether or not from time to time Mr. Mitchell finds it necessary to leave the chair and call to it for a few moments some one else? A. It frequently becomes necessary for the presiding officer of our convention to call to the chair some one else, and the record will show that Mr. Lewis presided at times, and it will show that John P. White presided and possibly other delegates attending the convention.

123 Q. Would the temporary absence of Mr. Mitchell from the chair, say for five or ten minutes, and the substitution of some other person in his place necessarily be noted on the minutes? A. As a rule it is noted. If he was simply called from the chair temporarily, the stenographer might not take notice of it.

124 Q. If the stenographer did not happen to notice the absence, no notice would be made of it? A. No.

Redirect examination.

Questions by Mr. DAVENPORT:

125 Q. I believe you have stated that your impression is
297 that Mr. Mitchell was presiding? A. Yes, but I am not making any positive statement on that matter, though.

126 Q. And that this resolution was read in his hearing? A. It may have been.

127 Q. What is your impression about it? A. I stated my impression was that Mr. Mitchell was presiding, and I am governed largely, however, in that statement, by the records of the convention, no notation of anyone else having presided at our convention at the time.

Recross-examination.

Questions by Mr. RALSTON:

128 Q. I wish you would state your acquaintance with Mr. Mitchell, and how long it has existed? A. I am about nine years older than John Mitchell. We were born and raised in the neighborhood of Braidwood, Illinois. I knew his parents and knew his family.

I went to the same school he did, and, as it has been put at times, we graduated from the same coal mine.

129 Q. Do you know Mr. Mitchell's reputation as a law abiding citizen, complying with the laws of the country and the orders of court? A. I do.

130 Q. State what it is. A. During his life time and particularly since he has been connected with our organization officially, I know of no one who has tried to live within the law any more so than John Mitchell, and knowing him so well, I feel safe in saying that he would not under any circumstance knowingly do what he has been accused of in this case.

131 Q. I wish you would state whether his influence has or has not always been thrown in favor of order and fair dealings? A. Absolutely so on all occasions.

132 Q. In favor of order and fair dealing? A. Yes sir.

By Mr. DAVENPORT:

133 Q. A question I omitted: Mr. Ryan, after the passage of this resolution, can you state whether or not there is any means by which it can be rescinded or nullified in its effect, except by another convention? A. There is no way that it can be done. The convention in our organization is the supreme power.

134 Q. When this action was taken by this convention, according to the terms of the resolution, its effect was to fine any of the two hundred and seventy thousand members of the United Mine Workers five dollars if he bought a Buck stove and if he did not pay the fine to expell him from the organization? A. That is the language of the resolution.

135 Q. And its effect? A. Yes, its effect, if enforced.

Mr. RALSTON: Have you known of any member of the Miners' organization being fined or expelled for purchasing a Buck stove?

The WITNESS: No, there has not been any. There was not much danger of it the past year as they have not been earning enough money to buy a stove.

W. D. RYAN.

And further the witness saith not.

Subscribed and sworn to before me this 24th day of October, A. D. 1908.

[Seal Notary Public, Indiana.]

ALBERTI C. METCALF,
Notary Public, Marion County, Ind.

My commission expires March 14th, 1912.

301 E. A. KUPPER, a witness of lawful age, being produced, sworn and examined, testified as follows, on the part of the plaintiff:

Direct examination.

Questions by DANIEL DAVENPORT, Esq.:

1 Q. Your full name? A. Earnest A. Kupper.

2 Q. Where do you reside? A. Mount Vernon, Illinois.

3 Q. Are you connected in any way with the Buck's Stove & Range Co.? A. Yes sir, associated sales manager for southern Illinois.

4 Q. As such, do you travel for the Bucks' Stove and Range Company anywhere? A. In southern Illinois.

5 Q. How many towns do you visit? A. I visit about a hundred and twenty-five.

6 Q. Calling upon customers and merchants? A. Yes sir.

7 Q. Are those towns mining towns? A. I have about, I
302 would judge, possibly forty mining towns.

8 Q. In that section that you visit? A. Yes sir.

9 Q. And the merchants in those towns? A. Yes sir.

10 Q. Mr. Kupper, I wish you would state whether or not the customers in those towns say anything to you when you solicit their trade in regard to the action of the United Mine Workers of America in placing the Buck's Stove and Range Company on the unfair list?

Mr. RALSTON: This will be under the objection as to the competency, materiality and relevancy made at the beginning of this examination, and I furthermore object as referring to events having no connection whatever with the contempt charge against Mr. Gompers, Mr. Mitchell and Mr. Morrison.

A. Well, they simply state when I try to sell them our stove, that the Buck's stoves are on the unfair list, and that their town is made up of miners and that they depend entirely on the miners for their trade, and that the miners cannot buy our stove.

303 11 Q. Do they say anything to you in regard to the statements made to them by miners? A. Yes, sir, they say that the miners will come in their store and go through the stove department and ask them whether that is the only stove they carry, or whether this is the only stove they carry "Buck's," and they simply walk by them and say they cannot buy them.

12 Q. They say they cannot buy them? A. That they cannot buy them.

13 Q. Can you give the names of the towns in which statements have been made to you by your customers? A. I think I can.

14 Q. Either present or prospective customers. A. Marion, Illinois, Duncan-Baker Hardware Company.

15 Q. Is that since January 1908? A. Yes. Johnston City, Illinois, Duncan-Baker Hardware Co. Harrisburg, Illinois, Duncan-Baker Hardware Co. Herrin, Illinois, Ellis Stove Co. Cartersville, Illinois, Ellis Stove Co. Christopher, Illinois, Browning-Jones Mercantile Co. Benton, Illinois, Stompers Fitzgerald Mercantile Co. Ses-

sor, Illinois, Cockrum Brothers, Tamaroa, Illinois, J. T. Hally & Co. Percy, Illinois, T. A. Lickins. Marissa, Illinois, C. E. 304 Varies. West Frankfort, Illinois, Henson & Sinks. Carbon-
dale, Illinois, Phillips Hardware Supply Co. Nashville, Il-
linois, Paul Hardware Co. O'Fallon, Illinois, Ohlendorf & Thomas.
Trenton, Illinois, L. N. Kowntz. Breese, Illinois, Christ Neibor.
Collinsville, Illinois, W. W. Linder. Pocahontas, Illinois, E. J. Gill.
Nokomis, Illinois, J. S. Griffin. Litchfield, Illinois, Bortling &
Hussy. Staunton, Illinois, A. Miller. Mt. Olive, Illinois, Zimmer-
ing Hardware Co. Gillespie, Illinois, Gillespie Hardware Co. El-
dorado, Illinois, O. S. Young.

16 Q. Mr. Kupper, will you state whether or not this action of
your customers diminishes or destroys the trade of the Buck's Stove
& Range Company in those towns? A. Yes sir, it does.

17 Q. Were you present at any time in any of those stores when
miners came in and said anything about it? A. Yes, I was present
in Benton, Illinois, and a miner came in there and wanted to buy
a stove and looked through their line, and when he found that our
customer had nothing on the floor but Buck's, he simply turned
around and walked out and said he could not buy a Buck's stove,

but if our customer had something else he might buy it, but
305 he could not buy a Buck's stove.

Cross examination waived.

ERNEST A. KUPPER.

And further the witness saith not.

Subscribed and sworn to before me this 24th day of October.
A. D. 1908.

[Seal Notary Public, Indiana.]

ALBERTI C. METCALF,
Notary Public, Marion Co., Ind.

My commission expires March 14th, 1912.

306 MAE B. GRAY, a witness of lawful age, being produced,
sworn and examined, testified as follows, on the part of the
plaintiff:

Direct examination.

Questions by DANIEL DAVENPORT, Esq.:

1 Q. State your name. A. Mae B. Gray.

2 Q. Where do you reside? A. 1516 Sheldon Street.

3 Q. Are you a stenographer? A. I am.

4 Q. Were you present in Tomlinson Hall in Indianapolis, Indi-
ana, on Tuesday night, September 29th, 1908, when Samuel Gomp-
ers made a speech? A. I was.

5 Q. Did you hear him? A. I did.

6 Q. Did you take notes of his speech? A. I did.

7 Q. Have you a transcript of those notes? A. I have.

307 8 Q. Is this the correct transcript of those notes? A. As near as I could get it.

9 Q. Is this the correct statement of what he said, so far as contained in this? A. Yes sir.

Mr. DAVENPORT: I offer this transcript in evidence and ask the Notary to mark it Exhibit No. 3.

The said transcript was marked Exhibit No. 3, and the same is in the words and figures following, towit:

308 EX. No. 3, DEP. OF MAE B. BRAY. A. C. M., Notary.

Speech of Samuel Gompers, Delivered at Tomlinson Hall Tuesday Night, Sept. 29, 1908.

Mr. CHAIRMAN, FELLOW-CITIZENS, LADIES AND GENTLEMEN: I doubt whether there is one in this vast audience who has a keener appreciation of the duty devolving upon me this evening than I have, and though perhaps I may be unable to present to you in a fairly intelligent manner the principles underlying the subject to which I mean to address you, I feel conscious of this fact; that to deal with the great question involved in this campaign would require more time than either you would have the patience to listen to or I the time to devote to. But we cannot escape the performance of duty. The attempt on our part to postpone the performance of a duty simply creates the condition of affairs a hundredfold more aggravating and brings on greater trouble, more acute wrong and requiring a thousandfold greater effort to remove.

309 There are too many of our people, who conscious of our great strength and power and progress as a Nation, imagine that because of our strength, because of American progress that has been attained, that therefore, we may all go on in the even tenor of our ways and escape the responsibility of duty and citizenship. I want you to understand that the men in the organized labor movement of our country are not pessimists. They do not look upon the darker side of life. The very fact that they organize is in itself the best evidence that they believe in the principles upon which our Republic is based; but because we are associated, because we are united, because we undertake to do our duty as workers, and as citizens is not any reason that we are less apprehensive of dangers ahead, and this brings to my mind a thought to which I desire to call your attention.

Bear in mind that the Republic of the United States was not the first Republic in the world and the history of the world. The pages of history of the world, record the lives of the Republics and their men, and though convinced that our Republic will live, I realize, to do that it can only live as the warning cry given more than
310 one hundred years ago by one of America's greatest constructive statesmen—Jefferson—when he said: "Eternal vigilance is the price of liberty," and that warning slogan is as true today as the day when it was coined and uttered.

I shall not attempt in detail to discuss the causes of failure of the Republics before ours. Time does not admit. I shall simply refer you to the fact that in the Roman Republic elements of decay were introduced when the great patrician class was created and the great plebian class. Then at once those in authority passed edicts and proclamations granting franchises and privileges and immunities to patricians, and denying rights and liberty and exact justice to the plebians. The patricians were of noble blood; those so designated the plebians were of the workers. Then gradually the workers, deprived and shorn of their rights found that they had little or no interest in maintaining a Republic that denied them their inherited God-given rights. No wonder then that the Roman Republic fell an easy prey to a mere handful of barbarian invaders. The heart had been taken out of the people; they were not free citizens of 311 the Republic of Rome, and they might have well been the bondsmen and the subjects of any other dominating power as the dominating power in their own country, when they could not be treated any better.

I ask you my friends whenever looking over the broad domain of our country and noting the legislation of states and particularly the legislation of Federal Congress and tell me or better still answer yourself the question, whether we do not find in our legislature and our Congress, men engaged in discussion and acting legislation granting franchises and privileges and immunities to the one, and who are curtailing human liberty for the masses; and so I ask you to consider whether this is not strictly in line with that threat of the legislation, the part of the legislature and congress, the aim and purpose of many promises of our judiciary to pass laws to accomplish that very thing when either the legislature or the congress did not dare to attempt to pass such laws.

Let me call your attention to a few of these subjects in 312 which you and I are all vitally interested. Some eighteen years ago as a result of a widespread indignation among the people of our country against the great Trusts that were controlling the products of labor, the products of the hand and of the land, Congress passed a law commonly known now as the Sherman Anti-Trust Law. Is there a man or woman in this audience who will say that when that law was passed there was in his mind or her mind the possibility that that law applied, or would be made to apply to the men and women of labor who associate themselves for their own protection? I pause for an answer. Is there a newspaper in the whole country which existed and was published at that time which can produce an article or an editorial showing that the Sherman Anti-Trust Law as it passed Congress, included the organization of wage-earners of our country? No! The Congress at one time or the other, either one house or the other passed by practically a unanimous vote, the proposal of the amendment to the law, the amendment to the bill in the beginning and the amendment to the law later, that should exclude the voluntary organization of the work-

ing people from the application of that law, and yet we find
 313 the Supreme Court of the United States deciding within the
 last few months that the Sherman Anti-Trust Act declares that
 the Union of Labor and every one of them is a Trust.

I suppose you who are wage workers in this audience may not
 have known it heretofore, but you are members of a trust. I sup-
 pose that some of these ladies and gentlemen upon this platform,
 officers of labor organizations, are not aware until I inform them,
 that they are trust magnates. Imagine that the highest court in our
 country has decided that you and I who work for wages with our
 trades or callings, that we belong to a combination is an illegal re-
 straint of trade, and that every member of every labor organization
 may be sued in threefold damages for any amount that anyone may
 claim to have lost, and not only that, but the court has decided that
 the Federal Government may at any time enter the Federal Courts
 and prosecute every member of every labor organization, and the
 Court may impose a fine of not more than \$5,000 and one year im-
 prisonment. That the Federal Government has not yet done that

thing to any of the men and women of toil who are members
 314 of any organization is because of one or two things. Perhaps
 the administration don't believe in so enforcing the law, or
 the administration may think it highly impractical to do it at this
 time, but in either event and regardless of the motive, the fact is
 that the Supreme Court of the United States has decided that the
 power is vested in the Government to do so, and let me say further
 that a few months ago, since the decision of the Supreme Court,
 seventy-five men in New Orleans have been indicted by the Grand
 Jury for conspiracy, simply because they helped laborers in a con-
 test with their employers—a ship owner.

For elucidation let me say that the men, the seamen, were engaged
 in a contest with a ship-owner because he refused to pay the scales
 of wages. They struck, the ship-owner securing a number to take
 the places of the seamen. Then the Central body of organized labor
 in New Orleans asked every man of labor to help the seamen and
 their condition, and as a result the workmen in their branches re-
 fused to handle the cargo of the ship unless the company came to
 terms and payed the scale of wages to the seamen. The result of it
 was the ship company soon came to an agreement; the cargo
 315 was placed on board the vessel and the vessel had a full com-
 plement of men and sped on her way. As soon as the ship had
 been out three days, the Company's Agent went before the Grand
 Jury and under the decision of the Supreme Court, rendered only a
 few days before, secured the indictment of seventy-five members of
 organized labor in New Orleans.

I am told that the administration has stopped the prosecution.
 Perhaps the administration may be under an impression that the
 court did not decide justly or intelligently, or the administration
 may imagine that it is impractical to prosecute those seventy-five
 men at this time, but in either event, to my mind, and to the mind
 of the men of labor, it ought not to be in the power left to the discre-

tion or the judgment of the administration, favorably or adverse, now or hereafter, to enforce a decision, a law interpreted, that the voluntary organization of the working people be classed as Trusts and illegal combinations in restraint of trade. My friends, some have said, "Well you are exaggerating the circumstances and conditions.

316 You say the labor organizations are outlawed, and isn't that far-fetched?" Let me answer this: There is not an action which an organization of working people can take. There isn't an action which any number of working people engaged in a controversy with their employers, even though it be unorganized which they may take and which any man, or woman on oath may claim that they were damaged or injured by that action in their business. I say, I repeat, no matter what that action may be, that the plaintiff cannot recover threefold damages under the law as interpreted by the Supreme Court of the U. S.

At this very day the members of the Hatters Union in Danbury, Conn. are now on trial (I was about to say on trial; on trial has been so much in my mind for the past few weeks that I am imagining, that everybody else is on trial as well as myself). These men are defending themselves in a suit brought by the Loewe Hat Mfg. Co. of Danbury, Conn. for the recovery of \$240,000.00. It is not much between you and I? He claims to have been damaged \$80,000 by a strike, and for the \$80,000 he claims threefold damages, or as I said \$240,000.00 and since I mentioned the name of the

317 Loewe Hat Mfg. Co. of Danbury, I am reminded of the remarks of our friend who just preceded me, Mr. John J. Keegan when he said that he did not know whether possibly the committee of arrangements—did not know whether possibly an injunction could be issued against my speaking upon any particular subject. While I give them credit for their understanding of me in a general way, I want to say this to you and to all that it may concern, that so long as I retain my health and my sanity, I am going to speak upon any subject on God's green earth, and as a citizen of this country and as editor of the American Federationist, the official monthly magazine of the American Federation of Labor, so long as I am endorsed by labor of the United States with the performance of duties of the office, I will discuss every subject which forms itself to my judgment as being just and right. I have not yet surrendered and I am not likely to surrender the right of the freedom of speech and the freedom of press, and let the consequences be what they may before I get through this evening, if you will listen to me.

I shall discuss the merits of the Buck Stove and Range Co. 318 injunction, but before I depart too far from the line of thought that I shall try to adhere to strictly, I want to ask you my friends, whether you have heard since the Court of the United States has rendered that decision, one word, one opinion by the gentleman who has received the nomination for the highest office in the United States at the hands of the Republican Party. Have you heard one word, affirmative or negative upon that subject from the Honorable William H. Taft? I pause for an answer. And yet there has been introduced in the Congress of the United States since the

decision was rendered, a bill that would rectify this wrong: a bill introduced by a gentleman who had his residence, or rather his official headquarters in the city of Indianapolis for many years—William B. Wilson, Secretary of United Mine Workers of America, and who was elected from his home town in Pennsylvania to Congress, and true to his principles and true to his manhood he introduced that bill.

I just want to say one word, I ask you to bear in mind, because to me the two questions upon which I desire to particularly interest you are to my mind the most important that the people of our country have ever been called upon to discuss and to decide, because one must live. We can't live without eating it is true, but we can afford to live on a little less for a time, if human liberty and human justice is to be accomplished thereby, and to me it is an insult to the workers of our country to attempt to browbeat them either by threats, or promises of a full stomach. That is an appeal to the beast; not to the intelligent manhood or womanhood. I believe that one of the essentials of life is the necessity for our material improvement, but you men and women of toil, you know that you have had to go hungry at times in order to secure some improvement in your condition, and the threat, or the promise of punishment, or a full dinner pail is beneath the consideration of American citizens.

I want for a few months to present to you as nearly as I can—What is a Trust? A Trust is a combination of individuals which undertakes to control the products of labor, the products of the land. No matter how the people may be robbed, yet that is a trust. The Trust is aiming to squeeze out as many of those who would profit by the Trust as possible. You cut practically into a Trust with an axe. On the other hand, what is a labor organization—a union of labor. Nothing more than human beings who have nothing for sale. They own and control nothing and can sell nothing except their power to labor. On the one hand the trusts that might distribute, or send, or ship their products, the products of labor to any part of the country, to any part of the world. It might be wrecked, it might be destroyed and it would never interfere with the human liberty of the owners. You cannot make a law, you cannot make a regulation governing the worker, governing labor, governing labor organizations, that will not affect the body, the brain, the blood the sinew the human flesh, the soul of the men and women who toil. It is impossible to justly classify the organization of the working people, and put them in the same class as the Trusts and corporations.

May I for a moment call your attention to the fact that what the unions of labor have done to bring light and life in the homes of the toilers? Whatever full dinner pail has come to the workers, was not brought to the working people on silver platters. It was due first, to the brain and drawn of the American workmen, and secondly to the Organizations of Labor. One thing we do hope to attain, one thing we shall attain and that is the right that every man and woman has, in regard to the thing they possess and can dispose of and that is what they set the price

upon—their own labor. You go to a storekeeper—if you want anything, any article, you will have to pay the price the storekeeper sets and if you don't buy it at that price you can do without. That is the rule throughout life, except as the idea some people obtain among them and that is that not the seller but the buyer of the labor power shall set the price. The working people have about made up their minds that they are going to have a voice in determining the price at which they are going to sell the only thing they possess—their power to labor.

Now I want to call your attention to a few matters that you will remember. Last night I was honored by the distinguished
 322 candidate for presidency on the Republican ticket—Judge Taft—with part of a speech which he made at North Dakota and a report of that meeting read: "Special emphasis was laid upon the stand taken by President Samuel Gompers of the American Federation of Labor, and his elevating power of delivering the labor vote of the country, the subject being treated with ridicule and rasping sarcasm." Well now Mr. Taft is a very serious man. He has been a Judge on the bench for many years and no one has ever yet accused him of being either a humorist, a satirist, or one who indulges in rasping sarcasm, so then I am distinguished from all others in the consideration of Mr. Taft. But my friends, Judge Taft knows better than I can tell him that he does not intend to use his rasping sarcasm or his ridicule upon me. Oh No! It may be an attempt to make it so appear, but Mr. Taft and those who are supporting him know that I not only speak my own sentiments but that I have the direct instructions of the toiling organized masses of our country.

If the people could be made to believe that which I discuss
 323 is not deserving of consideration or answer, but simply to ridicule and rasping sarcasm, why then of course the trick is done, but Mr. Taft and those working for his cause, know as you know, that there has not been a meeting of working people within this past fifteen years where the subject of the grave wrongs which labor has been compelled to endure has not been attacked and denounced and the men of labor and spirited citizens have pledged themselves time and time again that at the first opportunity they would take advantage of it and raise their voices in protest for relief; at any convention whether it be in the local union of the workers in Indianapolis, any town or city in Indiana, any city or town throughout the country, in the State Federal Convention, the International Unions, in the American Federation of Labor, everywhere workmen met, that denunciation and demand was made.

Last March a meeting of the responsible representatives of organized workers of America met in Washington and drafted a protest to Congress and presented it signed by all of them, and declaring that unless relief came, labor would with the assistance
 324 and co-operation of public spirited, liberty-loving men and women of the country, hold the majority in congress respon-

sible, both as a party and as individual members of it, and that unless they granted that relief, we would exercise our rights as workers and as citizens.

Mr. Taft imagines that he can fool the working people of America by that repetition of that false charge that I have ever said that I would deliver the labor vote. Deliver the labor vote! Why, I have three sons and I could not undertake to deliver their votes and I would not if I could. I am not asinine enough to believe, much less promise that I could or would deliver the votes of the working people of this country. I have too much good sense myself to entertain such a silly notion, and I have more confidence in the intelligence of my fellow workmen than to entertain such a thought, even for a moment. No, no, I could not deliver any votes—none but my own—that is cinched.

But before I discuss that in its general aspect I want to call
 325 your attention to a few matters in connection with the subject which has been so splendidly handled with Mr. Keegan before me, and really I would have enjoyed it very much if he had been permitted to continue if I had only had sufficient time myself also. But do you know that no one has yet disputed the fact that Mr. Taft when upon the bench as Judge issued injunctions, that as a candidate he has before the nomination, discussed injunctions, and since — has been nominated, he has written his speech of acceptance and discussed injunctions, and now he says that the workmen have the right to organize. Yes of course they have the right to organize, but for what? We may have the right to organize and to say that "Long Live the President of the United States." We have the right to organize and in our organization to pass resolutions declaring that Mr. Taft is a jolly good fellow. We have the right to organize and we can say, "You first my dear Alphonse." We may be proud we can organize and become a mutual back scratching society, a mutual admiration society but to organize and to exercise the normal functions of a labor organizations—and that is
 326 within proper conception of justice—that, we have not the right to do. If any of you have any doubt as to the accuracy of my statement, I ask you to read that part of Mr. Taft's letter of acceptance, in which he refers to labor and its rights, and you will find he says "But labor has not the right" and then he proceeds to discuss in qualifying phrases the things that labor has not the right to do and the things that he says labor has not the right to do are essentially the right for any man to do and which he would do and every other citizen of our country does in the course of his life. It is "But labor has not the right to do this" and "But labor has not the right to do that." It is the constant cause of the qualifying "But," and the very qualifications that Mr. Taft makes in his speech of acceptance and which he has since discussed, when he has discussed the subject at all, are the very injunctions that are issued daily in our Court. The injunction which Judge Taft issued while upon the bench is now the basis for the injunction against the American Federation of Labor and its officers and the

great rank and file of the labor organizations of the country,
 327 just as in issuing the injunction of the Buck Stove & Range
 Co. quoted Judge Taft injunction in support of his, Judge
 Gould's, position.

Do you know that about two weeks ago John Mitchell, Frank
 Morrison and I were three of us haled to court to show cause why
 we should not be punished, why we should not be sent to jail for
 contempt of court? What did we do? As editor of the American
 Federationist, or rather Mr. John Mitchell, is Vice President of the
 American Federation of Labor, he was held, did not know of our
 proceedings at all and his convention adopted the resolution that the
 members should not buy the Buck stove and ranges. I want to say
 to you that if the injunction is strictly construed and enforced, I
 am in contempt of court again for telling you that, but I propose to
 discuss this thing, and I do not want to be in contempt of Court,
 but I propose to discuss it. The injunction prohibits me from men-
 tioning the above stove and range company in this case to any body,

328 either by word of mouth or by letter, or either in letter or
 circular or any way, but I can't help that. I must discuss it.

I will explode if I don't, and I don't want to go to jail but I
 prefer that to exploding. I don't know what his honor, the Judge,
 may do with Frank Morrison and John Mitchell and I. Perhaps the
 judge may hold that after all we are not guilty of contempt of court,
 and again he may decide we are, simply because as right of editor
 of the American Federationist I have written editorials and propose
 to continue, and upon the platform I discuss this question and pro-
 pose to continue and Frank Morrison has sent out our official journal
 of proceedings concerning this case. What I want to call your at-
 tention to especially, is the fact that the whole proceedings of the
 Buck Stove & Range Co. injunction, the whole judgment and de-
 cision of Justice Gould in the District of Columbia, is based upon the
 injunction issued by the Hon. Wm. H. Taft when —, and further
 than this, that he makes neither a pretence nor promise of a change
 of judgment, and I ask you friends what are we to do. It is abso-

329 lutely untrue that the working people of our country, organ-
 ized or unorganized, asked or have asked to become a privi-
 leged class of wrong doers as Mr. Taft has charged. It is not
 true. We don't want any immunity for any violation of the law,
 committed by any of our men. If there is a man or woman who has
 violated the law, or performed any criminal act, we say take that
 man or woman up to court; present him or her with the accuser;
 give him or her a trial by jury; that jury decide upon the complaint
 or indictment, whether this man or woman has been guilty of un-
 lawful or criminal conduct, but while we ask no immunity, we ask
 also that we shall be accorded exact and equal protection and equality
 before the law with every other citizen of our common country.

A letter was handed me on my stepping upon the platform this
 evening in which I was asked this question. "Will you please, so
 that any one may understand the writ of injunction, why issued and
 why served, its workings, court procedure in enforcing it, the results

and benefits, also direct and indirect contempt, read the explanation if you please, or technically known —." The name is not necessary. I regret very much that I did not have this request made of me sometime this afternoon since my arrival and I should have gladly have read something which I have prepared upon that subject and which is in print, but I want to say to the gentleman that I shall take great pleasure in sending to him the essential conditions of labor, upon the injunction case. It is too big to handle it fully in a meeting of this character in which I have so much to say and so little time to say it. Let me say we ask that an injunction shall not be issued unless there is a property and a property right involved, that inasmuch and as it was the intention that the writ of injunction should apply to property and property rights only. That what the working people hope to do — a few points on the injunction which included the prohibition of a man committing crime or violence is wrong—not because we want for the man the right to do a criminal act. No. For two reasons we hope for the abolishment of it. One is that an injunction granted by the court enjoining a man from committing a crime leaves the presumption that he would be guilty of the crime. Secondly that if it be a crime, the ordinary law is provided to try and punish it if he is guilty of the crime. If it is not criminal and it is not unlawful, he ought not to be enjoined from doing the lawful things he has a right to do, so that in either event, from either view of the subject, the injunction should not lie in labor disputes when it would not lie under any other circumstances. We hold that the law does not change, simply because a dispute arises between an employer and his working people. What is good law yesterday when there was not a dispute with the employer is good law today when a dispute occurs; but let me just add this one more feature to it and I shall leave it for another, and that is when a man is charged before a court with committing any crime or any unlawful act, the accuser must prove the person guilty. I want to repeat that the accuser, the court, the district attorney must prove the person or the man charged.

They must prove him guilty before he can be convicted.

When an injunction is issued a man is held before the courts, not to have his guilt proven, but he must show cause why he should not be punished. It reverses the position exactly; in one instance the State, the County and Court, the Judge and the jury must prove this man guilty who is charged with an offence; in a contempt proceedings on injunction, the man must show cause why he should not be punished. In other words he must show he is not guilty and in fact that he is not guilty of doing the things he has a lawful right to do. My friends, if this question merely involved the working people engaged in a controversy I would not participate in this campaign and have to bear the brunt of this bitter antagonism, but it strikes deeper than the men who are engaged in the strikes; the liberty of the people is never taken away from them at once. It is like a thief in the night stealing the liberty of the people first at one time then another time, and subtly by the process of reserving the rights of the working people, freedom is dead—freedom is denied and dead. The injunction implies the government

by an individual that individual in olden time the king was the judge. The Judge need not give any explanation as to why he finds that a man has not shown good cause, why he should not be punished for contempt of court. He issues the prescribed injunction to its extent; he hails to the court the man who he charges as having violated it, and then he sets the punishment as his judgment, his opinion. If he has had a good night he may be lenient with the culprit; if he has had a bad night, Lord pity the poor fellow; and I suppose good and bad nights are frequently controlled by good or bad evenings before the night.

I want to say this to you my friends; we have asked for an enactment of the Perry bill introduced in the congress by a representing member from Maryland. I ask you my friends is it possible for you to imagine that England would have a law granting a privileged class of wrong doers, and yet the British Parliament in December 1906,

334 less than two years ago, passed a bill known as the Dispute Act, which embodies more than what we have asked at the hands of Congress, and yet we went to both parties as has already been explained to you. We made the same demands from both of them. We did not go to the Republican convention as Democrats nor to the Democratic convention as Republicans. We went there as non-partisans. We went there as workers and as citizens asked, petitioned, and appealed to the Congress of the United States, to the representatives of the political parties, the representatives of the people in the respective political parties, asking relief at their hands, and I want to say to you here and now, someone has said that I am a Democrat and always was a Democrat. The fact of the matter is I never was a Democrat and I can't help giving utterance to that thought just now. The men in the labor unions are not Democrats in this campaign. They are not Republicans. We owe allegiance to no political party but are working for the cause of the Democratic party in this campaign because it stands and its candidates stand for labor. (Much applause.) I want you to listen to me. I

335 have not so much time for you either, and I rather you show your quiet demonstration and determination on the 3rd of November than your enthusiasm this evening.

I just want to say this: I entertain a very high respect and regard for the President of the United States. I have had the honor of his acquaintance for more than twenty-five years; when he was first a member of the New York legislature, then as Police Commissioner in the City of New York, then as Assistant Secretary of the Navy, Governor of New York, Vice-President of the United States, and as President of the United States. I have often had the pleasure of having myself honored in agreeing with him. I have on frequent occasions been compelled to descend from his views, and I want to descend in two things; one that he has attempted to give the candidate of the Republican party a clear bill of fare towards this injunction proposition and secondly as unwarranted term indirect upon the American Federation of Labor. The President said in his letter

336 to that western ranchman whose name I don't recall that Judge Taft is all right on his injunctions. That they are in the interest of labor and that no responsible organization of

labor has the right, is justified, or would object to it. Well that may be all right enough for the President. I am sure he is thoroughly safe from the injunction for the future. It is *strange* how much men who never will be called upon to suffer from an injunction how long they can endure an injunction. The men who labor and who are enjoined, they know different. They are made to bear the consequences of these unjust injunctions, and as I say the evil of injunctive process was brought about by Mr. Taft—Judge Taft, and no amount of sugar-coating of a saw-dust pill is going to *command* the protection of that evil. The American Federation of Labor has protested against that injunction and that purpose of injunction. There isn't an organization of working people in the country that has not denounced and attacked—but I cannot enter into that as fully as I should like to for I want to address myself to a few matters that have transpired within the last few weeks.

337 You know you have been honored by a visit in this city a few days ago by genial Uncle Joe Cannon. You know that one of the cleverest things he says is that he has no desire to be consistent and I want to say to you this, that it would do the ordinary man credit. No man if he is wrong ought to contest and maintain a contest or remain in the wrong simply to be consistent. When a man changes from wrong to right a man ought to be inconsistent, but when the change is invariably from right to wrong then he ought to try to be consistent,—at least sometimes. In everything that has made full progress, in everything that has made for reform, real tangible reform, for every measure that had for its purpose the extension of the maintenance of fundamental principles of right and justice, wherever any change has taken place in the conduct of Joe Cannon, it has been from right to wrong. He has been recognized for more than a third of a century or rather for a considerable period of time as I designated him a few weeks ago in his own home town with that sinister smile, that appealing ingenuity but behind

338 it lurks an incarnate antagonism to human progress in our country and for that reason I stamp him the Mephistopheles of American politics and I shall not attempt to discuss Joe Cannon's record here. I don't like long range fighting. I did that on Labor Day in his own home town. I have come to Indiana for nearer game. In American politics no matter how malevolent the man may undertake to be, no matter how sinister his purpose, he cannot get along without there are others who will do his bidding, and Uncle Joe Cannon has met a few members of Congress who were always willing to do his bidding, given them the position and life and strength to do the things that they sought to do no matter how it ravished the honor and the interests of the people of our country.

It reminds me very much of the great poem of Goethe, of Faust. He created the character Mephistopheles—the devil—and he also created the character of Doctor Faust, aged, decrepit and yet yearning, yearning, yearning for lust of power, and Faust calls upon some power from heaven above or from hell below to give

339 him that power, and Mephistopheles appears to him and when Faust enters, Mephistopheles shows to his vision a beautiful

creature—Marguerite—and so entranced is Faust that he sells his soul to Mephistopheles for the privilege of despoiling and polluting Marguerite. The purpose is accomplished, Marguerite dies and Faust submits to the terms of the contract and Mephistopheles claims his own and carries him to the nether regions. There never was to my mind a better exemplification of that character of Mephistopheles of American politics typified by Joe Cannon, and Faust who despoils and pollutes American Public Life in the politics of our Federal government than Uncle Joe Cannon and Jim Watson, the candidate for governor.

I hold in my hand a copy of a letter which I sent to Mr. Theo. Perry, Chairman of political committee of the Indian Federation of Labor. The letter is dated Washington, D. C., Feb. 25, 1908. It contains copy of letter I sent to John Mitchell. I say this I am willing to hand it to the representatives of the press if they will
 340 print that letter tomorrow morning or if not tomorrow morning— (Talks with man in audience.) I wanted to say that if any paper is unable to publish it tomorrow I will be glad to furnish it any day that the newspaper would print it. The reason I say this, I am asked a question as to the record of Mr. Watson as a member of Congress and his attitude towards measures in which the toilers are interested. It is—Mr. Watson on the stump a few months ago July 29th at Gary, Indiana, made a speech in which he calls for facts, for specific accounts, that I offer this in evidence, and let me say this, that if that letter contains any word which is untrue or disrespectful, I shall make an apology to Mr. Watson, and yet I am going to read part of the Speech which Mr. Watson made July 29th at Gary.

"Inasmuch as I have been honored to the greatest position represented by my state I feel it is entirely proper for me to say only a few things on that proposition; before nomination for governor several Democrats have undertaken to cripple and injure me, among those Democrats is one Mr. Samuel Gompers, a man that never took
 341 out his naturalization papers in the United States and a man who never cast one solitary vote in the United States. He lived a while in Massachusetts and removed to the District of Columbia, and that man has never cast one vote as an American Citizen, and yet he has repeatedly said he was a Democrat, and believes with the Democrats. Mr. Gompers assailed me from the presidency of his organization. It happened to fall to my lot to be sent out by the Republicans in the various states. I was sent into Mr. Littlefield's district in Maine," then he goes on, "I went to help elect a man that believes as I believe. Mr. Gompers was there to defeat this man. I never said anything disrespectful to Mr. Gompers. I also went to Mr. B—— district in Wisconsin and Gompers was there, and I went to five or six other states and because I helped in the campaign, I incurred the displeasure of this man and since then he has been fighting me. I only take my chances in the proposition. I am a Republican. I did not go there to antagonize this man because I did not know he was to be there. I said noth-

ing out of the way against him. I defy any man here or
 342 anywhere else to put a finger on a single act or any speech
 that has been in the least hostile to the cause of labor. It is
 easy enough to say a man has been hostile to labor."

In the first session of the 59th Congress the only bill that came to
 the vote of the house was the 8-hour law in the construction of the
 Panama Canal, and on this bill Mr. Watson voted to annul the 8-hour
 law. In the 59th Congress a document known as Labor Bill of
 Grievance was submitted to the members of the house with the re-
 quest that they state their attitude on the measures therein. A copy
 of this was sent to Mr. Watson. He made no reply. I sent him
 another letter. He made no reply. In the 59th Congress a bill
 was pending to abolish compulsory pilotage. In other words pilots
 were to be abolished even in the dangerous harbors, no matter how
 dangerous. The lives of seamen were to be disregarded. Labor op-
 posed the passage of that bill; Mr. Watson voted in favor of it.

The ship subsidy bill, the bill not only granting ship
 343 subsidy but making it a — to employment. That in going
 to sea for a living a man would be compelled, be practically
 compelled to contract to enlist in the naval service of the United
 States. While it did not provide in those terms for such a fact yet
 only such shipowners that had a certain percentage of sailors who
 had signed the contract for the naval service could receive the subsidy.
 You can readily understand that the employers would not employ
 any seamen unless they did sign such a contract. Mr. Watson was
 in favor of that bill. The bill for the investigation of women and
 child labor was enacted without roll call. There was a bill in the
 59th Congress to limit the hours of men on the railroad—the work-
 men on the railroad. Mr. Watson not only opposed the bill, pre-
 pared and introduced by the railroad men, but as the whip of Uncle
 Joe Cannon, he issued a call for a special meeting, demanded that
 every Republican Congressman should be in attendance to vote upon

the bill that the railroad men did not want, and he opposed
 344 by every power that he had to defeat the bill by measures the
 railroad men did not want. But now before I leave that I
 want to call your attention to the fact that he says that among these
 Democrats is one Samuel Gompers. I want to say to you my friends
 that really I never was a Democrat. Once many years ago I was a
 Republican. I cast my first vote for General Grant for presidency
 in 1872. I say I was a Republican many years ago. Since then I
 have not been guilty, but I am not a Democrat. Neither myself nor
 the labor movement is represented by the Democratic party. We
 are going to fight the battle of labor with the party that has made
 labor contentions its own. I was nominated by the Republican party
 of my district for State Senator and then declined to run. I was
 offered the Republican nomination for Congress. I declined to run.
 President McKinley offered me several very nice positions which I
 declined to accept. That would not indicate that I was always a
 Democrat. Watson says "That man never took out his naturaliza-
 tion papers in the United States; a man that never cast one solitary

vote in the United States." I hold in my hand a document
 345 which says that on the 4th day of October in the year of our
 Lord, 1872, Samuel Gompers, appeared in the Superior Court
 in the City of New York, now the Supreme Court of the State of New
 York, First Judicial District, set forth by common law and applied
 to the said court to be admitted to become a citizen of the United
 States of America.

As a matter of fact I am just a little more than 58 years of age.
 Next Sunday will celebrate the 36th year of my citizenship in the
 United States. I could not become a citizen sooner. They would
 not let me, but as soon as I was past my 21st birthday, I loved this
 country enough to give it my heart and mind and hand, and though
 I may be deprived of the right of becoming either President or Vice-
 President of the United States as I was born in a foreign country,
 I think that I am pretty near the truth when I say that Jim Watson
 has no more shown than I have. Mr. Watson thinks he can excuse
 himself by accusing me. He imagines he can cleanse himself by
 trying to throw mud at me. My friends, I ask you for a
 346 moment what you think of such a trio—or such candidates—

Sunny Jim Sherman declaring he and his party were res-
 ponsible for the voluntary legislation. Just imagine injunction-
 Judge Taft for president in the presidential chair; Sunny Jim in
 the Vice-Presidential chair and Uncle Joe in the Speaker's chair—
 and Jim Watson Governor of Indiana. Think of it! What hope
 for real reform to be accomplished in Nation and State with these
 men at the helm. I have been asked, "Why is it that you labor
 men have not endorsed some party which is also declaring for
 labor?" Let me say friends that while I have not lost entirely my
 sense of humor, I am not in this campaign because I am really en-
 joying it. There are ever so many other things to do; so many
 duties to perform that I have very reluctantly entered into this fight.
 But having entered into it, I am not going to play politics as if with
 a toy. I am engaged in a fight—a serious, tremendous fight. These
 third parties, even if their platforms are good, they know and we
 all know that they can't be elected, and we can't wait. I
 347 know these third party people can wait—like President
 Roosevelt, they can wait, but the injunction we can't and we
 won't.

I don't want to say anything unkind about the third parties but
 I am sure that they will be immediately recognized this campaign
 as Taft Aid Societies. The men of labor know their rights and
 they are going to stand for them.

It is too late. The time has gone by Mr. Van Cleave, Mr. Post,
 Mr. Perry, Mr. Taft, the time has gone by. You might have de-
 ceived the people into submission long long ago, but you have per-
 mitted our forefathers to learn to read, and we begin to understand
 now, what is meant by the alphabet, and the conjuring of letter that
 spell men and women and children; that mean justice and right and
 unity and freedom. The American workman does not bend his
 back nor has he a receding forehead. He is not typified by the

man with the hoe. The American workman stands erect and looks the whole world in the face, demanding justice and equality before the law, and we will be satisfied with nothing less.

348 There is an attempt being made to coerce, to intimidate the —. Let me say this as a peace-loving citizen, as a man who has done much to maintain industrial ties, to maintain cordial relations with employers, to come to agreement, but I say to you men of labor and to all the toilers of the country whose attention I can elect that I know of no more justification for working people to resist such coils, such intimidations but to strike if necessary to prevent the imposition and compulsion of workmen to cast his vote not as a — ticket but as a proxy of a corporation of an unfair employer. We are not working in this campaign to tear down anything, but to build up, not to deny right to others but to see to it that the large mass of our people are not denied the right and justice which is theirs naturally and under the constitution. We have on one hand the Republican party and its candidates who have spoken and declared against us. Mr. Taft makes no amends, nor promises any relief. On the other hand we have the Demo-

349 cratic party which has cordially received us, made our contentions its own, risking the result upon our duty, upon our consequences, and its standard bearers incessantly declaring that he stands for those just principles in the American life that it is true Americanism and joined with our fellow citizens upon farm and field, and factory, workshops, mill and mine, in one great acclamation the voice of labor, the voice of manhood, the voice of honest citizenship; proclaimed by the immortal Washington, given voice by the great Jefferson and put into action by the immortal Lincoln. It will be the crowning glory of our country in singing our great refrain and anthem with William Jennings Bryan.

350 10 Q. I will direct your attention to the following, contained in Exhibit No. 3: "While I give them credit for their understanding of me in a general way, I want to say this to you, and to all that it may concern, that so long as I retain my health and my sanity, I am going to speak upon any subject on God's green earth, and as a citizen of this country and as editor of the American Federationist, the official monthly magazine of the American Federation of Labor, so long as I am endorsed by labor of the United States, with the performance of duties of that office, I will discuss every subject which forms itself, in my judgment as being just and right. I have not yet surrendered, and I am not likely to surrender, the right of the freedom of speech and the freedom of press, and let the consequences be what they may, before I get through this evening, if you will listen to me, I shall discuss the merits of the Buck's Stove and Range Company injunction. * * *

Do you know that about two weeks ago, John Mitchell, Frank Morrison and I were, the three of us, haled to court to show cause why we should not be punished, why we should not be sent to jail for contempt of court? What did we do? As editor of the
351 American Federationist, or rather, Mr. John Mitchell, is Vice-President of the American Federation of Labor, he was

held, did not know of our proceedings at all, and his convention adopted the resolution that the members should not buy the Buck's stoves and ranges. I want to say to you that if the injunction is strictly construed and enforced, I am in contempt of court again for telling you that, but I propose to discuss this thing, and I do not want to be in contempt of court, but I propose to discuss it. The injunction prohibits me from mentioning the above stove and range company in this case to anybody, either by word of mouth or by letter, or either in letter or circular or anywhere, but I can't help it. I must discuss it. I will explode if I don't, and I don't want to go to jail, but I prefer that to exploding. I don't know what his Honor, the judge, may do with Frank Morrison and John Mitchell and I. Perhaps the Judge may hold that after all, we are not guilty of contempt of court, and against he might decide we are, simply because as right of editor of the American Federationist, I have written editorials, and propose to continue, and upon the platform, I discussed this question and propose to continue, 352 and Frank Morrison has sent out our Official journal of proceedings concerning this case." I will ask you whether or not that is a correct report of that part of his speech?

Mr. RALSTON: I object, in addition to the objections already reserved, that the matter now offered, occurred subsequent to any contempt charge by the petitioners in their petition in this case.

A. It is.

Cross-examination waived.

MAE B. GRAY,

And further the witness saith not.

Subscribed and sworn to before me this 24th day of October, A. D. 1908.

[Seal Notary Public, Indiana.]

ALBERTI C. METCALF,

Notary Public, Marion County, Ind.

My commission expires March 14th, 1912.

353 JONES T. TEMPLETON, a witness of lawful age, being produced, sworn and examined, testified as follows, on behalf of the plaintiff:

Direct examination.

Questions by DANIEL DAVENPORT, Esq.:

1 Q. State your full name. A. Jones T. Templeton.

2 Q. Where is your residence? A. St. Louis, Missouri.

3 Q. Whereabouts? A. 5459 Vernon avenue.

4 Q. Are you connected with the Buck's stove and Range Company of St. Louis, Missouri? A. I am.

5 Q. In what capacity? A. Secretary.

6 Q. State whether or not you have anything to do with the sales of the product of the factory to its various customers? A. I do.

354 7 Q. You testified in the original case, I believe? A. I did.

8 Q. Your testimony can be found in the record? A. Yes sir.

9 Q. What information, if any, have you, Mr. Templeton, derived from your customers in the course of your trade with them as to the continuation of the boycott against the goods of the Buck's Stove & Range Co., which was prohibited by the temporary and permanent injunction?

Mr. RALSTON: I object to the testimony as calling for hearsay evidence, in addition to the objections reserved heretofore.

A. Since the injunction was granted, I have visited personally a large number of our customers and they tell me that on account of the activity of the officials of the American Federation of Labor that the boycott has been kept alive, that they frequently hear of it from people who come into their store and that for these reasons they have been compelled to discontinue advertising and pushing our line of stoves and ranges, and in some cases, discontinue the sale of our stoves and ranges altogether.

355 10 Q. I wish you would, as far as you can now recall, state particular instances. A. In the city of St. Louis, the Eckert House Furnishing Company, state that a number of people come to their store and when shown the Buck's stove, they would state that they could not purchase it on account of it being boycotted, and that there was a penalty attached to their purchasing a Buck's stove.

11 Q. Are these instances since the granting of the injunction? A. Yes sir.

12 Q. The temporary injunction and the permanent injunction? A. I am giving it from the time of the permanent injunction.

13 Q. The 23rd of March? A. Yes sir.

14 Q. Since the 23rd of March 1908? A. Yes sir. The Goseman-Parker House Furnishing Company of St. Louis reports the same; R. H. Kobush Furniture and Carpet Company of St. Louis, reports the same; Henry McNichols Furniture Company of St. Louis, state that their attention has been called to the matter so often since the permanent injunction was granted, that they felt compelled to discontinue the sale of our line of goods entirely and have
356 placed it with another line. D. Somers & Co., of St. Louis, our largest customer in that city said that so much pressure had been brought to bear upon them by members of labor organizations of St. Louis, since our injunction was granted, that they felt compelled to discontinue advertising and pushing our line of goods, and to day the line has been almost completely replaced by other makes of goods. Frank L. Schabb, of St. Louis, states that he cannot continue to push our goods owing to the fact that he is con-

tinuously annoyed by prospective purchasers giving him to understand that they are not allowed to buy Buck's stoves.

15 Q. For what reason? A. That they are unfair and boycotted.

16 Q. Are they members of unions? A. Yes sir. At Galesburg, Illinois, our customers state that owing to the continued agitation of the boycott by members of local unions, that they have been compelled to discontinue altogether the sale of our line of goods. Wednesday morning last I had a long distance telephone conversation with our customer at Collinsville, Illinois, stating that during the past few days he has been annoyed so much by members of labor organizations in the city that he fears to make any further efforts in the sale of our goods in Collinsville.

17 Q. Annoyed by them in connection with what, the Buck's Stove and Range Company? A. Yes sir. In Marshalltown, Iowa, we sold C. F. Schunt our full line of stoves and ranges, a car order, which was shipped, and when the car arrived, it was marked in chalk on the outside that the stoves were boycotted, and after the goods were unloaded and placed in the house, he was notified by prospective purchasers that they could not buy the Buck's stoves.

18 Q. For what reason? A. On account of them being boycotted and on the unfair list. At Salt Lake, Utah, we had arranged with our customers to do a large amount of advertising, to hold a biscuit baking contest, and so forth, and they cancelled it, claiming that on account of the agitation of our boycott, in Salt Lake, and the fact that members of the unions were coming into their store claiming that they could not buy Buck's stoves, because they were on the unfair list, forced them to cancel their agreement with us. Our Portland, Oregon, customers make the same claim.

19 Q. State how and what they say. A. Our customer in Portland, Oregon, agreed to do a large amount of advertising and push our line of goods, and cancelled their agreement, claiming that owing to the continued agitation of the boycott—

20 Q. By whom? A. By members of unions who came to their stores as prospective purchasers, that they were compelled to cancel their agreement. Our customer at Spokane, Washington, with whom we made a contract in July to do a large amount of advertising, cancelled the agreement claiming that they are constantly annoyed by members of the union coming into their store and stating that they could not purchase a Buck's stove on account of it being on the unfair list. At Perth Amboy, New Jersey, our sales manager recently visited our customer and held a baking contest and helped them to do their advertising, and within a few days after this advertising, we had a letter from our customer stating that he was so annoyed by the agitation upon the part of the members of unions who were prospective purchaser-, that he would be compelled to discontinue pushing our goods. At Bushnell, Indiana, our customer cancelled their order for stoves, stating that the agitation of our boycott by members of the labor unions was continuing and therefore they could not afford to handle our goods. At Washington, Indiana, and Oakland City, Indiana, our customers refused to allow our sales manager to place a Buck's stove in opera-

tion for exhibition purposes, stating that the members of the labor unions in their towns refused to buy Buck's stoves on account of their being boycotted. Those are specific instances.

21 Q. These are some of the instances? A. Yes sir.

22 Q. State as to whether or not this has had any effect upon the sales of the product of your company? A. Our sales, so far, this year, have decreased more than fifty per cent. as compared with our total sales of 1907, up to date.

Cross-examination waived.

JONES T. TEMPLETON.

And further the witness saith not.

Subscribed and sworn to before me this 24th day of October, A. D. 1908.

[Seal Notary Public, Indiana.]

ALBERTI C. METCALF,
Notary Public, Marion Co., Ind.

My commission expires March 14th, 1912.

360 Supreme Court of the District of Columbia.

No. 27305. In Equity.

THE BUCK STOVE & RANGE CO.

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

In the Contempt Proceedings Against SAMUEL GOMPERS, FRANK MORRISON, and JOHN MITCHELL, Defendants.

Affidavit of Mary Burke East.

I, Mary Burke East, No. 929 North Pennsylvania Street, Indianapolis, Indiana, being duly cautioned and sworn, depose and say, That I was the official stenographer in attendance upon the session of the Nineteenth Annual Convention of the United Mine Workers of America, held at Indianapolis, Indiana, on January 25th, 1908, and that I kept true and correct minutes of the proceedings of the morning session of said Convention on said day; that Exhibit A, hereto attached, is a true and correct copy of my minutes of the proceedings of said Convention at said session; that the said minutes are a correct statement of what occurred at said session; that I have been subpoenaed to give my testimony in the above entitled case and that I make this affidavit at the request of Daniel Davenport, the attorney for the Buck Stove & Range Co. in the contempt proceedings aforesaid, on account of my necessary absence from Indianapolis on the 6th day of October, 1908, at which time I

have been subpoenaed to attend before A. C. Metcalf, Notary Public, to give my testimony in said cause.

MARY BURKE EAST.

Subscribed and sworn to before me at Indianapolis, Indiana, this 2nd day of October, 1908.

[SEAL.]

A. C. METCALF,
Notary Public.

My commission expires March 12th, 1912.

362 EXHIBIT "A" TO THE AFFIDAVIT OF MARY BURKE EAST.

Fifth Day—Morning Session.

The convention was called to order at 9 a. m. Saturday, January 25, President Mitchell in the chair.

Delegate Neutzling, for the Committee on Credentials, read the following telegram:

Harry Baker, 1120 State Life Building, Indianapolis:

Death prevented me attending convention. Transfer credentials to John W. Nevils.

ROBERT MASON, *President.*
EMERSON PEART, *Secretary.*

Vice-President LEWIS: Robert Mason expected to be here as a delegate, but was called home from Columbus by the death of his brother-in-law, who died as a result of an accident in the mines.

On motion, the Credentials Committee was authorized to transfer the vote to Delegate Nevils.

Delegate Neutzling, for the Committee on Credentials, read the following report on the protest against seating Patrick Dolan:

INDIANAPOLIS, IND., *January 25, 1908.*

To Officers and Delegates of the Nineteenth Annual Convention here assembled:

363 We, your Credentials Committee, respectfully submit the following for your consideration:

Having received a protest signed by several delegates from District No. 5 in regard to the seating of Patrick Dolan from L. U. No. 547 of District No. 5, we find that his credentials have been received in accordance with our law and that L. U. No. 547 of District No. 5 is in good financial standing with the International U. M. W. of A.

But the evidence that has been presented to the committee is of such a character that we are without authority to act, and we believe this case is the property of this convention and not your Credentials Committee.

Respectfully,

JOHN J. MOSSOP.
HARRY BAKER.
ALBERT NEUTZLING.

Delegate JOHNSON: I move that the report of the committee be received and action taken thereon. (Seconded and carried.)

Delegate FARRINGTON (District No. 12): I move that the credentials of Patrick Dolan be laid upon the table.

364 Delegate SIMONDS: I have heard of no reason why Patrick Dolan should not be seated. His local is in good standing, and I do not see how we can bar him, notwithstanding our personal feelings.

President MITCHELL: The chair does not want to make an arbitrary ruling, but a motion to table is not debatable.

The motion to lay on the table is carried.

Delegate DORSON: I would like to know if the local union delegate Dolan had a credential for is otherwise represented here.

Delegate NEUTZLING: It is not represented.

Delegate DORSON: I would like to know what you are going to do with that local.

Delegate NEUTZLING: That is the final report of the committee.

Delegate W. D. Ryan, for the Committee on Resolutions, reported as follows:

Resolution No. 37.

Whereas, The transportation charge is a tax both upon the producer and the consumer and must largely constitute the cost of coal at the ultimate market of its consumption; and

Whereas, The cheapest method of transportation leads to a larger market and more activity in the production and consumption
365 of coal; and

Whereas, The development of the internal waterways of this country, not only accomplishes the attainment of a larger market and the consequent steady employment of the miners thereof, through the great cheapening of the cost of transportation, and the further development of the individual, rather than aggregations of combined industries; and

Whereas, The canalizing of our rivers and construction of deep water canals will open highways for competition, that never can or will be subject to corporate control, regulation or manipulation; therefore,

Be it Resolved, That this, the Nineteenth Annual Convention, U. M. W. of A., duly assembled, endorse the movements and activities of the various waterway improvement conventions and further lend its influence and the influence of each individual member of our national body to the furtherment of all such projects, and further demand of the National Congress an annual appropriation of not less than fifty million dollars (\$50,000,000.00) for such internal water way improvements.

Submitted by Committee on Resolutions.

W. R. FAIRLEY, *Chairman.*

W. D. RYAN, *Secretary.*

366 The Committee recommended concurrence in the resolution.

On motion of Delegate John Green (District 12) the report of the committee was concurred in.

Delegate SMITH (District 23): I move that when the committee concurs in a resolution and there is no objection to its adoption, the chair be authorized to announce that it is adopted.

The motion was seconded but not carried.

The Committee recommended that Resolution No. 36 be referred to the Committee on Scale.

On motion, the recommendation of the Committee was concurred in.

Resolution No. 56, January 21, 1908.

We believe that the present way of conducting a joint convention by holding the delegates of the competitive states in session after the Scale Committee is appointed is a great expense upon our brothers at home; and, therefore, be it

Resolved, That the delegates that are not on the committee return to their respective homes and avoid the great expense on our
367 brothers, the Scale Committee to refer back to the locals.

(Signed)

CLAYTON, CALVERT,
Delegate L. U. 2432, Dist. 11.

ALVA AX,
Delegate L. U. 414, Dist. 11.

The Committee recommended non-concurrence in the resolution.

On motion of Delegate Stanley (District 112), the recommendation of the committee was concurred in.

Resolution No. 53.

Whereas, The United Powder and High Explosive Workers of America, in their struggle for more thorough organization, are meeting with many adversities on account of their label not being introduced in use; therefore, be it

Resolved, That we, the U. M. W. of A., in convention assembled do hereby endorse the label of the U. P. and H. E. W. of A., and demand that it be used on all explosives, so far as it is possible to obtain it, and that all delegates be instructed to take this matter up in their locals.

H. H. JUSTICE.

The Committee recommended non-concurrence in the resolution.

On motion of Delegate McCoy the recommendation of the
368 Committee was concurred in.

The Committee recommended that Resolution No. 55 be referred to the Scale Committee.

On motion the recommendation of the Committee was concurred in.

Delegate RYAN: The first section of Resolution No. 20 was referred to the Resolutions Committee by the Committee on Constitution.

Resolution No. 20 (Sec. 1).

Be it Resolved, That the national body of U. M. W. of A. petition the United States Congress to pass a law providing for the appointment of at least three government inspectors of mines, to be general overseers of the work of the state inspectors of mines.

The Committee recommended non-concurrence in the resolution.

The Committee recommended, non-concurrence in the resolution.

On motion of Delegate Snodgrass, the recommendation of the Committee, was concurred in.

The Committee recommended that Resolution No. 69 be referred to District 11.

Delegate JOHN GREEN (District 12): I move that we concur in the report of the committee. (Seconded.)

369 Delegate STITT: If this man is in actual need, as the communication would indicate, some time will elapse before it can be acted upon, if you refer it to district 11. That may cause the man additional suffering and perhaps death. I do not think the recommendation of the Committee ought to be concurred in. I think some action ought to be taken here and now to relieve his immediate necessities, and that District 11 take it up later.

Delegate W. D. RYAN: We have three or four similar applications from District 12. A meeting of our members was called in this convention. One of the men was in the city. We sent him home and agreed to settle all such cases in District 12. If we allow this sort of thing to come into this convention, at the next convention we will have a thousand such applications.

The motion to concur in the recommendation of the Committee was carried.

The Committee recommended that Resolution No. 75 be referred to District 6.

On motion the recommendation of the Committee was concurred in.

The Committee recommended that Resolution No. 78 be referred to the Scale Committee.

370 Delegate HOLT: I move that the recommendation of the Committee be not concurred in.

President MITCHELL: The motion is not in order. A motion to non-concur in the report of the Committee cannot be entertained. A negative motion is not in order. The effect of defeating a motion to concur is the same as passing a motion to non-concur.

On motion of Delegate Dwyer the recommendation of the Committee was concurred in.

Resolution No. 71.

To the Senate and House of Representatives of the Congress of the United States:

Whereas, Taxation without representation is tyranny; and

Whereas, Women pay, in every State in this republic, a rapidly increasing amount of taxes; therefore, be it

Resolved, That justice demands that their present political disability be removed and that they be enfranchised upon the same terms as the men in the States in which they live; and,

Resolved, That the undersigned, on behalf of the United Mine Workers of America, in annual convention assembled at Indianapolis, Ind., on January 21, 1908, and representing 371 fully 350,000 mine workers, respectfully asks for the prompt passage by your honorable body of the sixteenth amendment to the Federal Constitution, to be submitted to the legislatures of the several states for ratification, prohibiting the disfranchisement of United States citizens on account of sex; and

Resolved, That the secretary of this convention is hereby instructed to forward this resolution to the president of the United States and to each member of Congress and of the United States Senate.

JOHN MITCHELL,

President United Mine Workers of America.

January 21, 1908.

The Committee recommended concurrence in the resolution.

Delegate McGRATH (District 25): I move that we concur in the report of the committee.

The motion was seconded and carried.

The Committee recommended that Resolution No. 72 be referred to the Scale Committee.

On motion of Delegate Vickers the recommendation of the Committee was concurred in.

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Resolution No. 73.

Whereas, The Buck Stove and Range Co. of St. Louis, Mo., have taken legal steps to prevent organized labor in general, and the officers and Executive Committee of the A. F. of L., in particular, from advertising the above named firm as being on the "unfair," or "we don't patronize list," and

Whereas, by the issue of such an injunction or restraining order as prayed for by above named firm, organized labor will be deprived of one of its most effective weapons, and

Whereas, J. W. Van Cleave, the president of above-named firm, and also president of the National Manufacturers' Association stated that in a few years' time he would disrupt organized labor; therefore, be it

Resolved, That the U. M. W. of A., in the Nineteenth Annual Convention assembled, place the Buck stoves and ranges on the unfair list, and any member of the U. M. W. of A. purchasing a stove of the above make be fined \$5.00, and failing to pay same, be expelled from the organization.

HARVEY STROUD.
FRANK SCHAFFER.

Indorsed by Local Union 755, Staunton, Ill.

The Committee recommended concurrence in the resolution.

373 Delegate J. H. WALKER (District 12): I move that we concur in the recommendation of the Committee.

The motion was seconded and carried by unanimous vote.

The Committee recommended that Resolution No. 74 be referred to the Committee on Constitution, as it referred to a question of law, and properly belonged to that Committee.

On motion of Delegate Stroud, the recommendation of the committee was concurred in.

The Committee recommended that Resolution No. 85 be referred to the Committee on Constitution.

On motion of Delegate Magdelene, District 5, the recommendation of the committee was concurred in.

The Committee recommended that Resolution No. 87 be referred to the Committee on Constitution.

On motion of Delegate Dunn, the recommendation of the Committee was concurred in.

Resolution No. 51.

Whereas, We, the miners of Texas, are working under conditions that do not exist in any other part of our District, such as pushing and brushing, and when we approach our operators on these
374 matters we are told that we have signed our agreement and we cannot ask for anything that will add to the cost of production; therefore, be it

Resolved, That the miners of Texas be granted the right of adjusting their own internal grievances with the operators of Texas in a wage scale conference at Ft. Worth.

(Signed)

J. B. EDWARDS,

JOHN LLOYD,

Local No. 2538, Thurber, Texas.

The Committee recommended that the resolution be referred to the Southwest Interstate Convention.

On motion of Delegate Burch, the recommendation of the committee was concurred in.

The Committee recommended that resolution No. 95 be referred to the International Executive Board.

On motion of Delegate Gildroy, the recommendation of the committee was concurred in.

Delegate FAIRLEY, Chairman of the Committee on Resolutions: That completes our partial report.

375 Delegate FARRINGTON (District 12): I do not know whether the matter I am to bring up will be in order at this time or not. I will, however, bring it to the attention of the delegates. Since the convention has been in session, the representatives of a firm manufacturing cartridge shells have been circulating printed matter concerning it among the delegates. I notice that the label of the International Typographical Union is conspicuous by its absence.

I therefore move that the proper representative of the international organization be instructed to notify the manufacturers of the cartridge shells that before we can give it our approbation or use our influence to have it introduced into the mines, they must give us a union made cartridge shell.

The motion was seconded and carried, the vote being unanimous.

Delegate PATTERSON (District 18): It is understood that W. B. Haywood is to be in the city tomorrow evening to speak at a meeting. I move that a committee be appointed to wait upon Mr. Haywood and ask him to address this convention.

The motion was seconded and carried.

President MITCHELL: The chair will announce the following committee to wait upon Mr. Haywood: E. S. McCullough, Michigan; Frank J. Hayes, Illinois; John Moss, District 21.

A motion was made and seconded that the rules be suspended and the convention adjourn until nine A. M. Monday January 27th.

376 Delegate FARRINGTON (District 12): The Committee on Officers' Reports will be ready to make a report this afternoon.

Delegate HOLT: I move as an amendment that the rules be suspended and we adjourn to one thirty this afternoon.

The motion was seconded and carried.

After the usual announcements the convention was adjourned at 1:30 P. M.

Stipulation.

It is hereby stipulated between the Attorneys for the Petitioner and the Respondents that the foregoing affidavit of Mary Burke East, with the Exhibit attached may be received in evidence on the hearing as if taken by way of Deposition pursuant to formal notice.

DANIEL DAVENPORT,

Att'y for Petitioner.

RALSTON & SIDMONS,

Att'y for Respondents.

377

Filed October 29, 1908.

In the Supreme Court of the District of Columbia.

No. 27305. Eq.

THE BUCK'S STOVE & RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

Notice.

Messrs. Ralston & Siddons and Alton B. Parker, solicitors for respondents.

GENTLEMEN: Please take notice that, on Monday, the 19th day of October, A. D. 1908, at ten o'clock A. M., and from day to day

thereafter until the same can be completed, the depositions *de bene esse*, before Frank W. Schwentner, Notary Public, at the office of J. P. Dawley, 619 Williamson Building, Cleveland, Cuyahoga County, Ohio, will be taken of the following witnesses, on behalf of petitioner, all of whom are non-residents of the District of Columbia: Harry D. Thomas, Max Hayes and Robert Bandlow, all of 717 Superior Avenue, N. E. Cleveland, Ohio.

DANIEL DAVENPORT,

J. J. DARLINGTON,

Solicitors for Petitioner.

Service of the above notice accepted, this 10th day of October, A. D. 1908.

RALSTON & SIDDONS,

Solicitors for Respondents.

378 In the Supreme Court of the District of Columbia.

No. 27305. Eq.

THE BUCK'S STOVE & RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

I, Frank W. Schwentner, a Notary Public in and for the City of Cleveland, County of Cuyahoga and State of Ohio, do hereby certify that pursuant to the Notice to that end hereto annexed, I proceeded on the 19th day of October, A. D. 1908, at the hour and place in said notice named, and in the presence of counsel for the respective parties, Daniel Davenport, Esq., appearing for the complainant, and Jackson H. Ralston, Esq., for the defendants, to take the following depositions of the witnesses: Harry D. Thomas, Robert Bandlow, Ulysses Grant Benedict and Max S. Hayes, produced on behalf of the complainant, each of said witnesses being by me first duly sworn according to law, and thereupon being orally examined upon the interrogatories propounded to them by the counsel for the said parties respectively as set forth in said depositions, and each of the said witnesses did thereupon depose and say as therein set forth, the counsel

for the parties having first consented that the testimony
379 so taken before me should be taken down stenographically, and reduced to typewriting, and the said examination being proceeded with was finished on the same day named in the notice.

I further certify that then and there, at the time and place named, the testimony of each of said witnesses was reduced to writing, the stenographic notes made by me at the time being absolutely correct, and correctly transcribed by me into typewriting, and that the testimony thus transcribed was signed by me for them, according to the stipulation made between the counsel for the parties respectively.

I further certify that I have annexed to the testimony the Notice given for the taking of the same, and also the exhibits offered.

And I further certify that my fees for taking said testimony are Fifty-three Dollars and Ninety Cents (\$53.90), which have been paid

by the complainant; that I am not of counsel for either party to the cause, or interested in the event of the suit; that I am now about to close the same under my official seal as Notary Public, and, being unable to return the same in person to the Supreme Court of the District of Columbia, I shall now place the said depositions in a sealed envelope, directed "To the Clerk of the Supreme Court of — Columbia, Washington, D. C.," and deposit the same with the postage prepaid in the United States Mail.

Witness my hand and seal this 19th day of October, A. D. 1908.

[SEAL.]

FRANK W. SCHWENTNER,
Notary Public, County of Cuyahoga
and State of Ohio.

My commission expires January 9, A. D. 1911.

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Stipulation.

It is stipulated by and between counsel for the Complainant and counsel for the Defendants, that either side may, at the hearing, rely upon any objection which they may see fit to adduce relative to the competency or materiality of the testimony or particular questions, as if such objections had been made specifically to each question as asked.

It is further stipulated by and between the parties hereto that the signatures of the witnesses may be waived, and that the testimony may be signed for them by the Notary taking the deposition.

HARRY D. THOMAS, a witness of lawful age, being produced, sworn and examined, testified as follows, on the part of the plaintiff:

Direct examination by Mr. DAVENPORT:

1 Q. What is your name? A. Harry D. Thomas.

2 Q. Where do you reside, Mr. Thomas? A. 7706 Lockyear avenue.

3 Q. Cleveland, Ohio? A. Cleveland, Ohio.

4 Q. What is your place of business? A. 717 Superior avenue.

5 Q. In the city of Cleveland? A. In the city of Cleveland.

6 Q. Are you the business agent and corresponding secretary of the United Trades & Labor Council of Cuyahoga County? A. Yes, sir.

7 Q. Ohio? A. Yes, sir.

8 Q. Can you state what unions compose the United Trades & Labor Council? A. I couldn't state offhand. I can furnish you a list.

9 Q. Here is a list (paper handed to witness)? A. That list is not correct at the present time.

10 Q. Well, make such corrections? A. Bridge & Structural Iron Workers, Building Laborers, Carpenters & Joiners, U. B. No. 11, 39, 105, 393, 449, 1108, 1756. Amalgamated Carpenters, Branch 1, 2, 3; Electrical Workers, 38; Elevator Constructors; Hoist-

ing Engineers; Lathers; Marble Workers; Marble Polishers & Helpers; Marble Mosaic Workers; Amalgamated Glass Workers; Boiler Makers, No. 5; Brass Molders, 132; Brass Workers, 19; Stationary Firemen, Steam Engineers, 81; Machinists, Cuyahoga Lodge, No. 83; Painters & Decorators, 102, 473; Paper Hangers, 128; Pressers, 129; Parquet Floor Layers; Plumbers; Plumber Diggers & Sewer Builders; Stonecutters; Sheet Metal Workers; Slate & Tile Roofers; Steam & Hot Water Fitters & Helpers; Tile Layers, Wood Carvers; Metal Polishers, No. 3; Patternmakers, National Association; Stove Mounters; Pile Drivers & Dock Builders; Marine Cooks; Lake Seamen; Bookbinders, No. 36; Printing Press Men, 56; Electrotypers, 35; Press Feeders, 45; Mailers, No. 12; Photo-engravers, 24; Typographia, No. 6; Typographical Union, No. 53; Webb Pressmen, No. 5; Amalgamated Association of Street Railway Employes, 268, 287; American Waiters, 106; Bakers, 19, 39; Barbers Union, Bartenders, Beer Bottlers & Bottled Beer Drivers; Beer Drivers, 91; Brewers, 17; Capmakers, 18; Car Workers, 69; Automobile Trimmers, No. 24; Automobile Painters; Cigarmakers, 17; Coopers Union; Curbstone Setters; Drivers & Bottlers, 6815; Electrical Workers, 39; Horse Shoers, 15; Hotel & Restaurant Cooks; Journeymen Custom Tailors; Musicians, No. 4; Newsboys & Bootblacks; Pavers, 5341; Retail Clerks, 41; Team Drivers & Helpers, No. 108; Theatrical Stage Employes; Tunnel Miners; United Garment Workers, No. 42, 204.

11 Q. What is the aggregate membership of the United Trades & Labor Council? A. I don't know.

12 Q. About how many? A. About 10,000.

13 Q. Working men in Cuyahoga County? A. Working men and women.

14 Q. In Cuyahoga County? A. In Cuyahoga County.

384 15 Q. Ohio? A. Yes, sir.

16 Q. Is the United Trades & Labor Council of Cuyahoga County, Ohio, affiliated with The American Federation of Labor? A. Yes.

17 Q. Does it publish a paper? A. Yes.

18 Q. What is the paper called? A. The Cleveland Citizen.

19 Q. Who is the editor of that paper? A. Max S. Hayes.

20 Q. Of what place? A. Cleveland, Ohio.

21 Q. And who is the business manager? A. Robert Bandlow.

22 Q. Of what place? A. Cleveland, Ohio.

23 Q. I show you a copy of that paper, and tell us whether you recognize it as an issue of the paper (paper handed to witness)? A. Yes.

24 Q. Of what date? A. Saturday, May 30th.

25 Q. Of what year? A. 1908.

385 26 Q. I show you another copy of a paper, and see whether you recognize that, (paper handed to witness)? A. Yes.

27 Q. What is the date? A. September 19, 1908.

28 Q. Is it a copy of the issue of September 19th? A. Yes.

29 Q. 1908? A. Yes.

Mr. DAVENPORT: I offer these papers in evidence, and ask that they be marked "H. D. T., Exhibit No. 1," and "H. D. T. Exhibit No. 2."

Mr. RALSTON: I object to the papers, unless the defendants are connected with the publication.

30 Q. I call your attention to "Exhibit No. 2," "H. D. T.," being the issue of Saturday, September 19, 1908, to the fifth column on the third page of the same, commencing at the top in bold type, "A. F. of L. Unfair List," and ask you whether you know anything about the insertion of that in that paper (paper handed to witness)? A. No, sir.

Mr. DAVENPORT: I will ask that there be copied into the record at this point in the testimony this list as it stands, and that the arrangement of the type "Boycott Buck's Stoves and Ranges, Unfair to organized Labor," be indicated as it is by large type, as
386 it is indicated in the list as printed.

Mr. RALSTON: In addition to all the objections as to competency, materiality or relevancy of the testimony, reserved generally at the beginning of this examination, I want to add that this exhibit is objected to as not being connected with the defendants in these contempt proceedings.

Said list is as follows:

"A. F. of L. Unfair List.

Food and Kindred Products.

Bread.—McKinley Bread Co., St. Louis, Mo.

Cigars.—Carl Upman, New York city; Kerbs, Wertheim & Schiffer, New York City, manufacturers of the Henry George and Tom Moore cigars; Rosenthal Co., New York city, manufacturers of the Bill Dugan, King Alfred, Peiper Heidsick, Joe Wolcott, Big Bear, Diamond D, El Tiladdo, Jack Dare, Little Alfred, Club House, Our Bob, 1405 Royal Arcanum cigars.

Flour.—Washburn-Crosby Milling Co., Minneapolis, Minn.; Valley City Milling Co., Grand Rapids, Mich.

Groceries.—James Butler, New York City.

Meat.—Jones-Lamb Co., Baltimore, Md.

387 Tobacco.—American and Continental Tobacco Companies.

Whisky.—Pinch Distilling Co., Pittsburg, Pa.

Clothing.

Clothing.—N. Schellenberg & Co., Philadelphia, Pa.; Clothiers' Exchange, Rochester, N. Y.; B. Kuppenheimer & Co., Chicago, Ill.; Saks & Co., Washington, D. C.; New York city and Indianapolis, Ind.

Corsets.—Chicago Corset Co., manufacturers Kabo and La Marguerita corsets.

Gloves.—J. H. Cownie Glove Co., Des Moines, Ia.; California Glove Co., Napa, Cal.

Hats.—J. B. Stetson Co., Philadelphia, Pa.; E. M. Knox Co., Brooklyn, N. Y.; Henry E. Roelof & Co., Philadelphia, Pa.

Shirts and Collars.—United States Shirt & Collar Co., Troy, N. Y.; Van Zandt, Jacobs & Co., Troy, N. Y.; Cluett, Peabody & Co., Troy, N. Y.; James R. Kaiser, New York City.

Printing and Publications.

Bookbinders.—Boorum & Pease Co., Brooklyn, N. Y.

Printing.—Hudson, Kimberley & Co., printers, Kansas City, Mo.; W. B. Conkey & Co., publishers, Hammond, Ind.; Times, Los Angeles, Cal.; Philadelphia Inquirer, Philadelphia Bulletin.

Pottery, Glass, Stone and Cement.

Pottery and Brick.—Northwestern Terra Cotta Co., Chicago,

388 Ill.; Corning Brick, Tile and Terra Cotta Co., Corning, N. Y.

Cement.—Portland Peninsular Cement Co., Jackson, Mich.;

Utica Hydraulic Cement & Utica Cement Mfg., Co., Utica, Ill.

Machinery and Building.

General Hardware.—Landers, Fray & Clark, Aetna Co., New Britain, Conn.; Brown & Sharpe Tool company, Providence, R. I.; John Russel Cutlery Co., Tuener's Falls, Mass.; Henry Disston & Co., Philadelphia, Pa.; New York Knife Co., Walden, N. Y.

Iron and Steel.—Illinois Iron & Bolt Co., Carpentersville, Ill., Casey & Hodges, Chattanooga, Tenn.; Lincoln Iron Works (F. R. Patch Mfg. Co.) Rutland, Vt.; Erie City Iron Works, Erie, Pa.; Singer Sewing Machine Co., Elizabeth, N. J.; Pittsburg Expanded Metal Co., Pittsburg, Pa.; American Hoist & Derrick Co., St. Paul, Minn.; Standard Sewing Machine Co., Cleveland, O.; Manitowoc Dry Dock Co., Manitowoc, Wis.

Stoves.—Wrought Iron Range Co., St. Louis, Mo.; United States Heater Co., Detroit, Mich.; Gurney Foundry Co., Toronto, Ont.; Home Stove Works, Indianapolis, Ind.

Please remember that it is unlawful for the American Federation of Labor to

389 BOYCOTT BUCK'S STOVES AND RANGES.

Justice Gould, in the Equity Court of the District of Columbia, on Dec. 17, handed down a decision granting the company a temporary injunction preventing the Federation from publishing this firm as

UNFAIR TO ORGANIZED LABOR.

(This is not in conflict with the injunction, but a statement of fact.)

Wood and Furniture.

Bags.—Gulf Bag Co., New Orleans, La., branch Bemis Bros, St. Louis, Mo.

Brooms and Dusters.—The Lee Broom & Duster Co., Davenport, Ia.; M. Goeller's Sons, Circleville, O.; Merkle-Wiley Broom Co., Paris, Ill.

Fiber Ware.—Indurated Fiber Ware Co., Lockport, N. Y.

Furniture.—American Billiard Table Co., Cincinnati, O.; Wisner Piano Co., Brooklyn, N. Y.; Krell Piano Co., Cincinnati, O.; Werby Desk Co., Boston, Mass.

Gold Beaters.—Hastings & Co., Philadelphia, Pa.; J. J. Keeley, New York City; F. W. Rauskolb, Boston, Mass.

Lumber.—Reinle Bros. & Solomon, Baltimore, Md.; St. Paul & Tacoma Lumber Co., Tacoma, Wash.; Gray's Har-

Telegraphy.—Western Union Telegraph Co. and its messenger service.

390 D. M. Parry, Indianapolis, Ind.

Thomas Taylor & Sons, Hudson, Mass.

C. W. Post, Manufacturer of Grape Nuts and Postum cereal, Battle Creek, Mich.

Leather.—Lerch Bros., Baltimore, Md.

Rubber.—Lambertville Rubber Co., Lambertville, N. J.

Wall Paper.—William Bailey & Sons, Cleveland, O.

Wagons.—The Hixkman-Ebbert Co., Owensboro, Ky., Owensboro Wagon Company, Owensboro, Ky.; F. A. Ames Co., Owensboro, Ky.

Watches.—Keystone Watch Case Co., Philadelphia, Pa.; Jos. Fahy, Brooklyn Watch Case Co., Sag Harbor; T. Zurbrugg Watch Case Co., Riverside, N. J.

Wire Cloth.—Thoas. E. Gleason, East Newark, N. J.; Lindsay Wire Weaving Co., Collinwood, O.

Miscellaneous.

Bill Posters.—Bryan & Co., Cleveland, O.; A. Van Buren Co., and New York Bill Posting Co., New York City.

Hotels.—Reddington Hotel, Wilkesbarre, Pa.

Railways.—Atchison, Topeka & Santa Fe Railroad; Missouri, Kansas & Texas Railway company."

Said paper marked "H. D. T., Exhibit No. 2," is hereto attached and made part of this Deposition.

31 Q. Now, I show you "Exhibit No. 1, H. D. T." being an issue of the Cleveland Citizen of Saturday, May 30, 1908, and
391 direct your attention to the second page thereof and the fifth column, to the words "A. F. of L. Unfair List," and ask you whether or not you know anything about the publication of that in that paper (paper handed to witness)? A. No, sir.

32 Q. Did you have anything to do with the publication of the paper? A. Actually no—personally, no.

33 Q. Well, in any other way? A. As a member of the Board of Control at the present time I examined the accounts of the paper, audit them occasionally.

34 Q. Is it published by the Board of control? A. It is published by the United Trades & Labor Council under the supervision of the Board of Control.

35 Q. And are you a member of the Board of Control? A. At the present time, yes.

36 Q. And how long a time have you been a member? A. Since the 15th day of July; the last election of officers in July.

37 Q. Who were the other members of the Board of Control? A. I couldn't state offhand. If you will hand me the paper I will read them off to you.

(Paper handed to witness.)

A. (continued). (Reading:) James Malley, R. Bandlow, John Carley, Herman Doepp, John Gerhard, F. W. Steffen, Max S. Hayes, C. F. Thomas, J. Melcher, M. Goldsmith.

38 Q. Do you receive the paper weekly? A. Yes, sir.

39 Q. And do you read it? A. Yes, sir.

40 Q. Did you know that that was in the issues? A. Yes.

41 Q. I mean that list? A. Yes.

42 Q. At the time that they appeared? A. I saw it in the publications as they came out. I didn't make any reference to the particular date.

43 Q. Do you know how large a circulation that paper has? A. It is sent to the membership of the United Trades & Labor Council; each individual member that is connected with the Council is sent the paper.

44 Q. Of the 10,000? A. Yes.

45 Q. Each week? A. Each week.

46 Q. Is the circulation confined to them? A. No; it is sent to some individual subscribers outside of that.

47 Q. To how many? A. I don't know. Mr. Bandlow could answer that question.

393 Said paper marked "Exhibit H. D. T. No. 2 is hereto attached and made a part of this Deposition.

48 Q. Mr. Thomas, I show you "Exhibit Y-3," to be found on pages 471, 472, 473, and 474 of the original record in this case, being pages 271, 272, 273 of the transcript of the record in the Court of Appeals in the Court of the District of Columbia, and ask you whether you sent that letter? (Record shown to witness). A. I couldn't say unless I look up my files; if I sent it it would be in my files. I remember sending a letter somewhat of that nature.

49 Q. With the heading? A. It would be on our regular letter-head.

50 Q. You remember sending a letter of that nature? A. I remember sending a letter of that nature, but whether that is the exact letter or not, I do not know.

51 Q. With such a heading? A. Oh, yes.

Cross-examination of HARRY D. THOMAS.

By Mr. JACKSON H. RALSTON:

X Q. 1. Mr. Thomas, has the Cleveland Citizen any association whatever with the organization known as The American Federation of Labor? A. No, sir.

394 X Q. 2. Does the American Federation of Labor contribute to its support, or receive its profits? A. No, sir.

X Q. 3. Has the Federation of Labor any right to employ or discharge any of the people engaged in the production of the Citizen? A. No, sir.

X Q. 4. Does the American Federation of Labor have anything to do with its business control? A. No, sir.

X Q. 5. Or its editorial control or management? A. No, sir.

X Q. 6. Have Mr. Samuel Gompers, John Mitchell and Frank Morrison any connection or association in any manner with the Citizen? A. No.

X Q. 7. Either editorially or in a business way? A. No.

X Q. 8. Do they control in any degree, directly or indirectly what goes into its columns? A. No, sir.

X Q. 9. Do you take any instructions from them as to what you should publish or not publish? A. No.

395 Redirect examination of HARRY D. THOMAS.

By Mr. DAVENPORT:

R. D. Q. 1. Mr. Thomas, I believe you have already stated that the United Trades & Labor Council of Cuyahoga County, Ohio, is affiliated with the American Federation? A. It is chartered by the American Federation of Labor.

R. D. Q. 2. Do you know whether or not it sends delegates to its annual conventions? A. Yes.

R. D. Q. 3. Do you know whether or not it sent a delegate to the Norfolk Convention of the American Federation of Labor held in November, 1907? A. Yes, sir.

R. D. Q. 4. And was Mr. Hayes the delegate? A. Yes, sir.

R. D. Q. 5. Mr. Max S. Hayes? A. Mr. Max S. Hayes, yes, sir.

R. D. Q. 6. The editor of the Cleveland Citizen? A. The editor of the Cleveland Citizen.

R. D. Q. 7. Mr. Thomas, I show you "Exhibit U" attached to the deposition of J. W. Van Cleve in the original case of The Buck's Stove & Range Company against The American Federation of Labor *et al.*, to be found on pages 438, 439 and 440 of the original record, and on pages 255 and 256 of the transcript of the record in
396 the case, of the Court of Appeals, and ask you whether or not you received as Secretary that circular (record handed to witness)? A. I can't recall the letter at this time. I have it on file if it was received. There is no date on it here. If it was published in the Cleveland Citizen I must have received it because it says "Official."

Mr. DAVENPORT: I ask that this be inserted in the record at this point.

Said "Exhibit U" referred to in the question to the witness is as follows:

"(EXHIBIT U.)

"Official.

"The Buck's Stove.

"To All Organized Labor and Friends:

"You undoubtedly are aware of the fact that the interests of the foundry employes and metal polishers have been greatly injured on account of the hostile action of the Buck's Stove & Range Co., of St. Louis, of which Mr. Van Cleave is president, and he is also president of the National Association of Manufacturers.

"As you are well aware, so inimical to the welfare of labor was the Buck's Stove & Range Co.'s management that the organization concerned felt obliged to declare the product of that company unfair.

397 The workmen's organization appealed to the American Federation of Labor to endorse its action. After due investigation that endorsement was given and is still affirmed. The circumstances leading to this action are so widely known that they need not be here recounted.

"Mr. Van Cleave, for the Buck's Stove & Range Co., brought suit against the American Federation of Labor and its executive council and has petitioned the court for an injunction to prohibit the American Federation of Labor from in any way advising organized labor and its friends of the fact that the Buck's Stove & Range Co. is unfair to its employes and for that reason its name is published upon the American Federation of Labor 'We Don't Patronize List.'

"The court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove & Range Co., upon the 'We Don't Patronize List.' Should we be enjoined by the court from doing so, the merits of the case will not be altered nor can any court decision take from any man the right to bestow his patronage where he pleases.

"Mr. Van Cleave, president of the Buck's Stove & Range Co., also president of the National Association of Manufacturers, is raising a war fund of one million and a half dollars to crush organized labor. You already know the attempts that have been made with a part of that money to assassinate *to* characters of the active men in 398 the labor movement, to corrupt them and buy them over, much of which was exposed at the recent Norfolk convention of the American Federation of Labor and more of which will be published in a pamphlet about to be issued.

"Bear in mind that you have a right to decide how your money shall be expended.

"You may or may not buy the products of the Buck's Stove & Range Co.

"There is no law or edict of court that can compel you to buy a Buck's stove or range.

"You can be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove & Range Co.'s products of its unfair attitude towards its employes and ask them to give their sympathy and aid in influencing the Buck's Stove & Range Co. to deal fairly with its employes and come to an honorable agreement with the union primarily at interest.

"It would be well for you as central bodies, local unions and individual members of organized labor and sympathizers, to call on business men in your localities, urge their sympathetic co-operation and ask them to write to the Buck's Stove & Range Co., of St. Louis, urging it to make an honorable adjustment of its relations with organized labor.

399 "Act energetically and at once. Report the result of your effort to the undersigned.

"SAMUEL GOMPERS,

"Pres't American Federation of Labor.

"FRANK MORRISON, *Secretary.*

"By order of the Executive Council of the American Federation of Labor."

Recross-examination of HARRY D. THOMAS.

By Mr. RALSTON:

R. X Q. 1. Mr. Thomas, is your council as a Trades Council in any wise dependent upon the American Federation of Labor, that is to say, could it or could it not exist, whether there was or was not an American Federation of Labor? A. No. There are a number of central bodies in the country that do not hold charters in the American Federation of Labor; some in this State, I believe.

R. X Q. 2. And the fact that you have what is called a charter is merely an incident, and not essential to your existence? A. It is not essential to our existence; it is part of our plan of organization, however.

R. X Q. 3. In other words, there were such central bodies before there was ever an American Federation of Labor? A. Yes, sir, and is now.

HARRY D. THOMAS.

400 ROBERT BANDLOW, a witness of lawful age, being produced, sworn and examined, testified as follows on the part of the plaintiff:

Direct examination by Mr. DAVENPORT:

Q. 1. What is your name? A. Robert Bandlow.

Q. 2. Where do you reside? A. 4913 Gladstone, Southeast.

Q. 3. In the city of Cleveland? A. In the city of Cleveland, Cuyahoga County, Ohio, United States of America.

Q. 4. Have you any connection with the publication known as the Cleveland Citizen? A. I have been selected its business manager.

Q. 5. Are you a member of the Board of Control? A. I am at the present time.

Q. 6. How long have you been the business manager? A. Ever since its inception May 18, 1901.

Q. 7. And were you its business manager in December, 1907? A. Yes, sir.

Q. 8. What are your duties connected with that paper? A. Look after the business interests of the paper, and follow the directions of the Board of Control, and the central body, given to me.

Q. 9. You have general supervision of the paper? A. Except the editorial matter.

Q. 10. Now, I will call your attention to "Exhibit No. 1, I. D. T." and "Exhibit No. 2, I. D. T." filed with and attached as an exhibit to the deposition of Mr. Thomas, and to the fifth column on the second page of said "Exhibit No. 1," and to the fifth column on page 3 of "Exhibit No. 2," each column being headed "A. F. of L. Unfair List." Did you have anything to do with the insertion of that? A. No, sir.

Q. 11. Who did? A. Brother Hayes.

Q. 12. Mr. Hayes? A. To my best knowledge.

Q. 13. You knew it was in there? A. After I saw it in print.

Q. 14. You saw it in each issue? A. If it was published in the paper of that issue.

Q. 15. Can you tell us how extensive is the circulation of that journal? A. We print at the present time 9,600.

Q. 16. Has it been that for the past year? A. No, it has been more.

Q. 17. How much? A. Why, we ran as high as 12,000.

Q. 18. Will you state whether or not a copy of that is sent to each member? A. Members in good standing of the Council get the paper.

Q. 19. Do persons outside of the membership? A. Everybody that wants to subscribe fifty cents will give it to you every week.

Q. 20. It is published for the general public? A. General public.

Q. 21. I will inquire of you now whether or not you are aware of the receipt, by the secretary of the United Trades & Labor Council of Cuyahoga County, Cleveland, Ohio, of a circular sent out by The American Federation of Labor, headed "Official" signed by Samuel Gompers, President of The American Federation of Labor, and Frank Morrison, Secretary, of which I show you a copy in the record (record handed to witness)? A. I can't recall whether that is a circular that has been read by the body or not.

Q. 22. Can you recall now whether or not it appeared in the issue of the Cleveland Citizen for Saturday, December 7, 1907? A. No, sir.

Q. 23. You have no personal knowledge of the matter? A. Why, I can't recall it. The matter stands entirely with the editor as to published matters. As a reader of the paper, like every other

reader, why, I might, if it was brought to my attention, and I may forget all about it.

Q. 24. The question is, whether you have any recollection about it at all? A. I can't at this moment.

Cross-examination of ROBERT BANDLOW.

By Mr. RALSTON:

X Q. 1. Mr. Bandlow, you have stated you are the business manager of the Cleveland Citizen? A. Yes, sir.

X Q. 2. As the business manager have you any connection or association with the American Federation of Labor? A. Not direct.

X Q. 3. Well, what indirect relation have you? A. The indirect relationship is simply that of membership in the United Trades & Labor Council.

X Q. 4. And that in turn is simply because you are a printer? A. Fraternal.

X Q. 5. And the National Typographical Union is allied with the Federation? A. With the Federation of Labor.

X Q. 6. In your capacity as business manager of the Citizen are you employed directly or indirectly by the American Federation of Labor or its officers? A. The Federation officers have nothing whatever to do with my appointment.

X Q. 7. Has the Federation anything to do with it? A. No, sir.

X Q. 8. It has no power to employ you or discharge you, has it? A. Not in the least; they tried to get me out of my position at times.

X Q. 9. They are not able to do it? A. No; it was simply a difference of opinion of the gentlemen associated with the Federation and our body, because I didn't agree with them they thought another business manager would be better than I.

X Q. 10. And on certain questions of policy you are not in unison with the general officers of the American Federation of Labor? A. By no means.

X Q. 11. And those questions of policy relate to social questions, do they not? Treatment of social questions? A. And political.

X Q. 12. Did you get any orders from the American Federation of Labor to have the unfair list published as it has been published since last December? A. No, sir; the matter of publishing matter in the Citizen is entirely the work of the editor; I have nothing whatever to do with it; he has carte blanche. I simply contract for advertising space and take in the money; sell subscriptions and take the money; 50 cents a year whoever wants it.

X Q. 13. Mr. Bandlow, do you know the relationship between Mr. Van Cleave, and the Buck's Stove & Range Company? A. I have some information concerning it, as it appears through the public press.

X Q. 14. Will you state what it is? A. Why, I understood he was directly interested financially in the Buck's Steel Range Company.

X Q. 15. What office does he hold, if you know? A. Either president or vice-president.

X Q. 16. Mr. Bandlow, do you know his relationship to the National Association of Manufacturers? A. I have seen it mentioned in the American Industries, Square Deal, and other publications of a similar character.

X Q. 17. And in the Citizens Industrial Association? A. Yes, sir.

X Q. 18. Mr. Bandlow, do you know whether those associations have taken an active part in the courts and before Congress, and before political conventions against the measures advocated by trades unions?

Mr. DAVENPORT: I want a special objection to this line of testimony as immaterial, irrelevant and incompetent, hearsay, and there is no foundation laid for it in the pleadings, and I give notice that

I shall ask to have the same stricken from the record, and the cost of the proceeding put upon the respondents.

A. I have every reason to believe so through the publications as they themselves dwell upon them. It is a part of the struggle between capital and labor. They are the capital side and I belong to the labor side; we are at war and war to the finish.

X Q. 19. Mr. Bandlow, do you know what this publication is (book handed to witness)? A. I have repeatedly seen copies of it, and read some of their very interesting letters.

X Q. 20. What is it? A. "The Square Deal."

X Q. 21. Published by the Citizens Industrial Association of America? A. Mr. Emery and Mr. Post.

X Q. 22. Do you know whether these associations you speak of have antagonized measures asked for by laboring men before Congress, or claim to have done so successfully? A. I have every reason to believe so through their publication.

X Q. 23. I call your attention to that publication and ask you to state what it is, and make it appear in your answer (book handed to witness)? A. (Reading:) "The work done by this Association at

Washington during the recent session of Congress was of inestimable value. For many years the Labor Trust had been permitted to present its 'demands' to Congress with all the specious and sophistical arguments with which its leaders are facund, without contradiction. No one appeared before the Committees of Congress to represent the people and to show their side of the case, and it was natural that congressmen should believe that in its attitude the Labor Trust had the support of the people of the country. The menace involved in the attack upon the independence and power of the judiciary as made by Mr. Gompers and his associates, as well as the danger to business interests involved in other 'demands' presented by him, seemed so grave last winter that it was felt that something extraordinary would have to be done for the protection of the common welfare, and a new organization known as The National Council for Industrial Defense, comprising in its membership the Citizens Industrial Association of America, The National

Association of Manufacturers, and upwards of 150 other National Trades Associations and organizations of citizens, was called into being, with Mr. Van Cleave, President of the National Association of Manufacturers, as chairman, and Mr. James A. Emery, Secretary of the Citizens Industrial Association of America, as general counsel and manager. The campaign which followed was a sharp
408 and hard-fought contest unparalleled for its vigor and spirit, and in its educational effect upon Congress. The result is well known to all men and has the enthusiastic approval of every well-informed patriot in the country. The contest was subsequently transferred to the National Republican Convention in Chicago where Mr. Emery, single-handed, met the shrewd leaders of the Labor Trust and overthrew them against the tremendous odds presented by the weakness of politicians, who, without his efforts, would have unquestionably surrendered inherent rights of manhood in the hope of gaining the votes of organized labor."

X Q. 24. It appears then that Mr. Van Cleave, through his associations, controls the actions of Congress and of the Republican National Convention against laboring men and their desires; is that right? A. That is but natural. One who understands the trend of political events knows that capital controls everything.

X Q. 25. I call your attention to the lines on page 88, and ask you to read it? A. (Reading:) "The Labor Trust is busy in sowing the seeds of doubt in the minds of those who are opposed to its operations and demands, and will use this last assertion of the President to influence the friends of the open shop to believe that
409 Mr. Taft has abandoned the attitude he maintained while a Judge on the bench in matters concerning labor disputes and the use of the injunction, to shake their confidence in him and thus, if possible, to alienate them from his support."

X Q. 26. In other words, "The Square Deal" interprets the standing of Mr. Taft as antagonistic to labor organizations and in favor of the open shop? A. I have reason to believe that that is the conception that these gentlemen have of Mr. Taft's position.

X Q. 27. Now, Mr. Bandlerow, do you know of any organizations in Cleveland affording their aid to manufacturers and others for the purpose of corrupting, if possible, the representatives of labor? A. Quite a number of them. The Citizen, as a labor paper, protecting the interest of the working class, several years ago presented an interesting article on the Manufacturers Association, the methods they employ, the names of its spies, the key it had for its employes. Every man had a key and they answered to the key. Similar to the plan our friend Kohler presented in the Plain Dealer yesterday where he refers to a secret service which should be known to nobody but himself.

X Q. 28. Do you know anything in that connection of the Corporations Auxiliary Company? A. It is a similar institution
410 organized afterwards, possibly because of the flourishing condition of the Manufacturers Spy Bureau.

X Q. 29. I call your attention to that letter, and ask you to identify it, and then I will offer it (paper handed to witness)? A. It is

written on the letterhead of The Corporations Auxiliary Company, as I have seen on copies sent to us by business men friendly to us, at various times.

Said letter was marked "R. B. No. 1" and reads as follows:

"THE CORPORATIONS AUXILIARY COMPANY,
"CHAMBER OF COMMERCE BUILDING,
"CLEVELAND, O., Oct. 9, 1908.

J. H. Smith, President.

E. S. Smith, Vice-Pres.

John Weber, Secretary.

A. C. Williams, Treasurer.

W. J. Kirkpatrick, Dist. Manager.

New York Office: 1167 Hudson Terminal.

Chicago Office: 828 Continental National Bank Bldg.

"Mr. Samuel Gompers, President of the American Federation of Labor, Washington, D. C.

"DEAR SIR: My attention has just been called to letters which you have written to A. M. Todd Company, of Kalamazoo, Michigan, to D. A. Reynolds, President of The Great Eastern Telephone Company, 32 Broadway, New York City, copies of which you gave to the Associated Press today.

411 "I have no interest in your private correspondence, but when you make public letters reflecting on the integrity of this company, it compels me to reply.

"If you have been correctly quoted you say that the conventions of the A. F. of L. are always in open session, and the 'Official' daily proceedings are given to the press and public. If your purpose was to convey the idea that they are not secret sessions, and therefore any one should think common report, are you not eligible in the famous club to which many have recently been assigned? Your 'Official' sessions may be open, as you say. Yet your unofficial sessions, committee meetings and secret caucuses, of which there are many, are not only closed to the public and press but are much more important and far-reaching in their effects than so-called 'Official' sessions. Do you not know it is a well-known fact that practically all your 'Official' proceedings consist of, is the ratification of the schemes concocted at your secret committee meetings and secret caucuses? What was your purpose in mis-stating these facts and giving the correspondence to the public press?

"Yours truly,

"THE CORPORATION AUXILIARY CO.,
"By J. H. SMITH, *President.*"

X Q. 30. Now, Mr. Bandlow, do you find that in point of fact those attending committee meetings and so on have been corrupted and spied upon in the manner indicated by the Corporations

412 Auxiliary Company? A. During the convention that I attended, which was some time ago, the capitalized interest had not resorted to these nefarious practices that they are employing

today. To my knowledge, in the convention I attended in Detroit in 1889, in Philadelphia in 1892, in Chicago in 1893, there was no secret sessions, nor were there any indications of anything except which came before the delegates on the floor.

Mr. DAVENPORT: I object to the quotations from "The Square Deal" and the letter from Mr. Smith and Mr. Gompers, as immaterial, irrelevant, incompetent, hearsay, and no foundation for such testimony has been laid in the pleadings; the same is not proper cross-examination, and I shall ask the Court to strike the same from the record, and Mr. Bandlow's testimony relative thereto, and put the costs of the matter upon the respondents.

ROBT BANDLOW.

413 ULYSSES GRANT BENEDICT, a witness of lawful age, being produced, sworn and examined, testified as follows, on the part of the plaintiff:

Stipulation.

It is stipulated and agreed by counsel for defendants that formal notice of taking the testimony of the witness Benedict is waived.

Direct examination by Mr. DAVENPORT:

Q. 1. What is your name? A. Ulysses Grant Benedict.

Q. 2. Where do you reside? A. Columbus, Ohio.

Q. 3. Did you testify in this case in Washington last. A. Yes, sir.

Q. 4. In behalf of the plaintiff? A. Yes, sir.

Q. 5. It appears by the record that was on December 31st, 1907? A. Yes, sir.

Q. 6. I call your attention to that part of your testimony which is to be found on page 618 of the original record in the case, and on page 345 of the transcript of the record in the Court of Appeals: "Question: I will ask you if you have seen this pamphlet before (exhibiting to the witness a copy of the American Federationist for the month of January, 1908)? Ans.: Yes, sir. Ques.: Will you state how you come to see it? Ans.: I purchased it at the

414 headquarters of The American Federation of Labor. Ques.: Where? Ans. In Washington, D. C. Ques. When? Ans.

This morning. Mr. DAVENPORT: I ask that this magazine may be marked for identification. The above mentioned magazine is marked "For Identification Benedict No. 1."

Q. 7. Now, Mr. Benedict, did you say you purchased it? A. I did, yes, sir.

Q. 7. How many copies did you purchase. A. Of that issue, one

Q. 8. At the time you purchased it, will you state whether or not there were any other copies of that issue displayed? A. A pile four feet high, by 15 to 20 feet long, in the hall of the American Federation Building.

Q. 9. The headquarters? A. Yes, sir.

Q. 10. At Washington, D. C.? A. Yes, sir.

Q. 11. Mr. Benedict, I show you a copy of the "St. Louis Labor," published at St. Louis, Missouri, Saturday, October 10, 1908, and ask you if you identify that as a copy of that publication? A. Yes, sir.

Mr. DAVENPORT: I ask that this be marked "Benedict Exhibit No. 1."

Said paper was so marked.

Q. 12. I direct your attention to the fifth page, first column, of that publication, near to the bottom of the column, and ask you to read it into the record? A. (Reading:)

"THE FACT IS

the Court of Equity of the District of Columbia declared against the boycott and ordered the American Federation of Labor to discontinue in the columns of the American Federationist under the 'We Don't Patronize' list the name of

"THE BUCK'S STOVE & RANGE CO.

"This court decision does not make this nor any other unfair concern fair; neither does it make the Union men and women of America forget the fact that Mr. Van Cleave is still fighting the Labor Unions, and that so long as he is pursuing his present Union-killing work he can not expect them to forget that he

"IS STILL UNFAIR TO ORGANIZED LABOR."

Q. 13. How is the type arranged? A. The type is so arranged that the impression is conveyed to the reader that the Buck's Stove & Range Company is still unfair to organized labor. That fact being the most prominent point of the notice.

Said paper marked "Benedict Exhibit No. 1" is hereto attached and made a part of this deposition.

Q. 14. I return again to the matter of the pile of the Federationist that you saw in Washington on December 31st, 1908, in the hall of the headquarters, and inquire whether or not they were exposed to view? A. Only the ends.

Q. 15. No, but the pile itself? A. The pile, yes.

Q. 16. I show you a copy of the American Federationist for October, 1908, and ask you if you identify that as a copy of that publication (magazine handed to witness)? A. Yes, sir.

Said magazine is marked "Benedict Exhibit No. 2," and is hereto attached and made part hereof.

Q. 17. I direct your attention to the following to be found on page 862, and ask that you read the same into the record? A.

(Reading:) "This Van Cleave-Buck's Stove & Range injunction is an invasion of the right of free press and free speech. For their temerity in upholding these constitutional rights, President Gompers, Secretary Morrison, and Vice President John Mitchell of the American Federation of Labor, are now haled before the Court in contempt proceedings to 'show cause' why they should not be sent to jail for this exercise of constitutional rights, which are alleged by Mr. Van Cleave to be in violation of the injunction and hence in contempt of court."

Q. 18. I direct your attention to page 894 of that publication, at the bottom under the heading "Correspondence," and ask that you read that? A. (Reading:)

"SPIRIT OF '76, HANNIBAL, Mo., Sept. 22, 1908.

"Samuel Gompers, President; John Mitchell, Vice-President; Frank Morrison, Secretary, of American Federation of Labor, Washington, D. C.

"DEAR SIRS & BROTHERS: Whereas three of our most prominent and trusted leaders, namely, Samuel Gompers, John Mitchell, Frank Morrison, are now on trial and within the shadow of prison, for exercising their constitutional rights as American citizens of free speech and free publication, a right cemented by the blood of the patriots of 1776, which established this alleged free country, and

Whereas, that as this is another strenuous illustration of the application of the 'injunction abuse' an alleged violation of which can be construed by the judge issuing the injunction as 'contempt of court,' and punished by depriving the accused of their liberty without trial by a jury of their peers, a right forced from King John by the English barons at Runnymede 800 years ago and held sacred and inviolate among the English-speaking people ever since, until the abuse of the injunction.

"Therefore, Be it resolved by the Missouri State Federation of Labor, in convention assembled, that we send words of good cheer to our respected and beloved leaders, urging them to continue the brave fight they are making for the maintenance of the liberties of the people, purchased at so great a cost, and just as the men of 1776 announced to the world, we stand ready to pledge our lives and liberties in an endeavor to retain the sacred heritage of liberty handed down to us by our forefathers.

"Very respectfully,

"THOMAS J. SHERIDAN, *President*,
"JOHN SMITH, *Secretary*."

Q. 19. Are you still sales manager for the Buck's Stove & Range Company? A. In Ohio.

Q. 20. In the same territory that you were in at the time you gave your previous testimony in this case? A. Yes, sir.

Q. 21. Well, now, will you state whether or not your customers show you any documents with regard to the boycott of the Buck's Stove & Range Company by the American Federation of Labor?

Mr. RALSTON: In addition to the reservations already made of objections, I desire to object to this question as an attempt to reopen the original case, and therefore improper.

A. Last week I saw three copies of a paper published here in the city.

419 Q. 22. What paper? A. The Cleveland Citizen, and a reproduction of Judge Gould's decision, regarding the injunction which was so arranged that when you held the paper up three feet away from you, all you could read of the column was "Buck's Stove Boycott. On the Unfair List," and four or five customers in the last 15 days have shown me that paper. I may name Byrne and Palmer of Dayton.

Q. 23. Dayton, Ohio? A. Dayton, Ohio. Campbell Furniture Company, Piqua, Ohio, and a Mr. McKenny, of Columbus, stopped me on the street and took me up into his office and showed me one. It has been brought to my attention several times.

Q. 24. Any other places? A. It was also brought to my attention at Jackson, Michigan.

Q. 25. By whom? A. By the Mr. Lewis of Gallup & Lewis.

Q. 26. Are these all customers of yours? A. Not at present; they were prospective customers I was trying to interest. Mr. W. B. Tuttle, at Coldwater, Michigan; Mr. Post of Young & Post, Benton Harbor, Michigan. One of the Mr. Howards, of the Howard Furniture Company, at Port Huron, Michigan. All of those gentlemen when I called to solicit business for the Buck's Stove & Range Company showed this to me in reply to a question they had put
420 to me, "Was the boycott over?" And all of the above named gentlemen, with the exception of Mr. Lewis, are now awaiting the termination of this suit before purchasing my goods. They have expressed themselves very clearly and forcibly upon the matter, and in expressing themselves said that they would not put in any Buck's stoves until this matter was thoroughly settled. Their reason for doing so was that they wanted to keep out of trouble.

Cross-examination of ULYSSES GRANT BENEDICT.

By Mr. RALSTON:

X Q. 1. Mr. Benedict, when you called at the office of the American Federation of Labor, what day was it, did you say? A. It was the 31st of December, 1907.

X Q. 2. What room did you go into when you went into the hallway? A. I went to the last room, at the end of the hall was a large room with several lady stenographers, and the first room leading from this, to the left as I entered, was the room in which I procured the Federationist.

X Q. 3. You mean leading out of this large room where there were a number of stenographers? A. Yes, leading out of this, the first room to the left. I passed through from the hall into a large room.

X Q. 4. To whom did you apply for a copy? A. A young
421 lady that had charge of the office. I was directed there by one of the stenographers, when I stepped into this large room.

X Q. 5. Who else was there in the room at the time? A. No one. It was a double office.

X Q. 6. Who was the young lady, do you know? A. I don't know.

X Q. 7. Did you give your name at the time? A. She took my name and address on a blank card and filed it.

X Q. 8. Did you state for whom you were procuring it? A. I gave her my name and address at my home.

X Q. 9. Was your address care of the Buck's Stove & Range Company? A. Columbus, Ohio.

X Q. 10. And where were those copies you saw piled up? A. In the hall that led to the room in which the stenographers were seated. I had to pass them in order to get into the room.

X Q. 11. Four feet high and twenty feet long? A. Three to four feet high and 12 to 15 feet long, or longer.

X Q. 12. That would represent easily four or five thousand copies, would it not? A. That I couldn't say; I haven't any idea as to the number of copies.

X Q. 13. Did you ask to buy more than one? A. No; she asked me if I wanted more than one.

422 X Q. 14. She asked you? A. "How many did I want?" I could have the issue, January issue of the Federationist.

X Q. 15. At whose request did you go there? A. Requested to go and get the——

X Q. 16. Who requested you to go and get that copy? A. Judge Davenport.

Q. 17. And you turned the copy over to him when you procured it? A. Yes, sir.

X Q. 18. Do you know of any other copies having been sold to anybody? A. Of that issue?

X Q. 19. Of that issue, January issue. A. I know of no other.

ULYSSES GRANT BENEDICT.

423 MAX S. HAYES, a witness of lawful age being produced, sworn and examined, testified as follows, on the part of the plaintiff:

Direct examination by Mr. DAVENPORT:

Q. 1. What is your name? A. Max S. Hayes.

Q. 2. Where is your residence? A. 937 Parkwood Drive.

Q. 3. Cleveland, Ohio? A. Yes, sir.

Q. 4. Are you a member of the United Trades Labor Council of Cuyahoga County, Ohio? A. Yes.

Q. 5. Were you a delegate from that body to the American Federation of Labor's annual convention held at Norfolk, in November, 1907? A. Yes.

Q. 6. Did you attend the convention? A. Yes.

Q. 7. I have here a copy of the official report of the proceedings of the 27th annual convention of the American Federation of Labor, held at Norfolk, Virginia, November 11th to the 23rd, inclusive, 1908, and it appears from that that you were appointed to one of

the committees; is that the fact? A. I believe I was on a committee.

424 Q. 8. Committee on Labels? A. That is it, Committee on Labels.

Q. 9. Are you able to state whether or not you were present in the sessions of the convention, being the seventh day of the session, on November 18, 1907? A. Well, I am not positive as to the day. You will probably notice there in the roll call. I wasn't absent very often; there was one or two partial days that I didn't get into the convention.

Q. 10. You have a roll call? A. A regular roll call published of every session.

Q. 11. And at the roll call found on page 201 of the proceedings, is a list of absentees? A. Yes.

Q. 12. Could you by looking over that say whether or not you were an absentee?

(Witness refers to record.)

A. My name not being in that list of absentees, it is quite certain that I was at the meeting.

Q. 13. I call your attention to the record on page 212, of this report, which is an exhibit in the case already, to the following:

"Delegate Ryan for the Committee on Resolutions reported as follows:

The Committee recommended the adoption of Resolution 49 when amended to read as follows:

Resolution 49.

425 By Delegates A. B. Grout, James J. Dardis, of the Metal Polishers, Buffers, Platers, Etc.

"Whereas, the Buck's Stove & Range Company, of St. Louis, Mo., of which J. W. Van Cleave is president, has attempted to disrupt the Metal Polishers, Buffers, platers, brass molders, brass and silver molders union of North America, and in pursuance of said object has arbitrarily abolished the 9-hour work day, which has existed in factory for over 18 months, and instituted a 10-hour work day.

"Whereas, the said J. W. Van Cleave, the President of said company, is also the president of the National Manufacturers Association, an association which constitutes a small minority of the manufacturers of the country, and which has declared its hostility against all labor organizations, and it was through the recommendations of the said J. W. Van Cleave that the said Manufacturers Association has undertaken to raise a fund of \$1,500,000 in three years for the alleged purpose of education, but which at the present time is being used under the direction of said J. W. Van Cleave in an attempt to disrupt the labor organizations of the country, especially the Metal Polishers, Buffers, Platers, Brass & Silver Workers Union of North America, as well as the International Brotherhood of Foundry Employés, with whom his company has a dispute, and,

“Whereas, it has come to our knowledge that the funds of the Manufacturers’ Association are being expended under the said Van Cleave’s direction, for the employment of detective bureaus throughout the United States, who are now conducting a campaign of vilification and slander against the officers and members of labor organizations, for the purpose of creating distrust among the entire membership, and to deceive and mislead them, therefore

“Be it resolved, that each central body affiliated with the A. F. of L. be and is hereby requested to appoint a committee who shall conduct and manage a ‘campaign of education’ among the membership affiliated with their central body, as well as dealers in stoves and ranges in their locality, and thoroughly inform them of the entire facts of the dispute between the metal polishers, buffers, platers, brass and silver workers union of North America, the Brotherhood of Foundry Employés, also as to the attitude of J. W. Van Cleave and the Manufacturers Association towards organized labor. Be it further,

“Resolved, that the said committee shall report on the first of each month to the officers of the A. F. of L. the progress of the ‘campaign of education,’ together with a complete list of all dealers in their locality who are handling and selling the product of the Buck Stove & Range Company. Be it further,

“Resolved, That all commissioned organizers of the A. F. of L. shall report on the first of each month progress made in this campaign of education by the different committees of the different central bodies in their respective districts, and also render such aid to all committees as lay in their power.

“A motion was made and seconded that the report of the committee be concurred in.

“The question was discussed by delegate Grout and Vice President Duncan.

“The motion to concur in the report of the committee was carried.”

Can you by looking at it recall the action on that? A. Yes, I recall that.

Q. 14. That such a resolution was put and carried? A. Yes.

Q. 15. And did you vote for it? A. I believe I did; if I am not mistaken it was adopted by unanimous vote.

Q. 16. I call your attention to the record on page 213 of this official proceeding, of the 27th annual convention of the American Federation of Labor, held at Norfolk, November 11th to 23rd inclusive, 1907, which reads as follows:

“Delegate Duffey (Frank), for the special committee appointed to consider the question of the Buck Stove & Range Company, announced that a report from that committee was ready.

“Delegate WILSON (JAMES): I move that that report be made a special order of business for 2:30 o’clock this afternoon.

“After a short discussion the motion was withdrawn, and delegate Ramsey, for the Special Committee, read the following:

To the Officers and Delegates of the Twenty-Seventh Annual Convention of the American Federation of Labor:

Your Special Committee, to which was referred the subject matter contained in the reports of President Gompers and of the Executive Council relative to the suit brought by J. W. Van Cleave, of the Buck Stove and Range Company, against the American Federation of Labor and its officers, and all matters in connection therewith, begs leave to report as follows:

"We have given the reports, the evidence and all other matters in connection with the suit, our deliberate consideration. There is not the least doubt in our minds but that the suit in question, the scurrilous and scandalous campaign of vilification against the officers of our great movement, the rampant antagonism of the worst elements of the capitalist class, as manifested in Los Angeles and elsewhere,

429 are all of them of a kind, leading up to and the result of the creation of the million and a half dollar war fund by the Manufacturers National Association—raised in the effort to weaken and ultimately destroy the effectiveness of our great movement, our movement which protects and advances the interests of the toiling masses of our country, against the greed and aggression of those who seek to profit if the toilers were rendered defenseless.

"We have read with the deepest interest the fundamental principles involved in the Van Cleave suit as set forth in president Gompers' report, under the caption dealing specifically with the suit, and also in that part of the report dealing with the 'injunction' abuse. We venture to assert that in no document of a similar kind or in any treatise upon the subject, have constitutional guarantees and inherent principles been set forth more clearly, logically and truly than in the President's report.

"There is involved in the Van Cleave-Buck Stove & Range Company suit against the A. F. of L. and its officers, fundamental rights which strike at the very root of free institutions. The freedom of speech and the freedom of the press are involved; and as President Gompers so ably and amply sets forth, there are involved the right of man's ownership of himself, his ownership of his labor power, of the wages he receives in return for the exchange of his labor
430 power, and the use to which these wages may be devoted.

"Freedom was never taken from a people by one attack. The process was and is gradual. It is the denial of the rights of one portion of the people at one time, the infringement upon the liberties of another portion at another time, that step by step make inroads into the citadel of freedom and undermine the entire structure.

"So with the injunctive process as typified in the present suit. The attempt to deny to the men of labor the right of the freedom of speech, and of the press, should not only arouse the resentment of the great masses of our people, but it should appeal strongly to the newspapers and magazines of our time.

"Freedom of the press implies not merely that one shall print and say the things that please. For such a purpose guarantees are entirely superfluous. The constitutional guarantees of the freedom of

the press were designed to protect the dissidents, the opponents, in their right not only to protest, but to make public that protest in speech and print, in an appeal to the people against existing power and conditions. In it are involved the guarantee of the right to say the things that displease, man being responsible for his utterances and never to be enjoined or prohibited from expressing himself.

431 self. "The blow in this instance against labor and its official magazine, the American Federationist, may tomorrow in some form be directed against another publication, and though labor may be called to bear the brunt and make the contest in the present proceedings, we urge upon the press of our country the consideration of the principle of free speech and free press involved in these proceedings.

"If the rights and the interests of the people are to be protected and defended against modern greed, avarice, chicanery, and unlawful power, we cannot, and we will not, surrender or yield the exercise of the liberty of speech, the liberty of the press.

"We protest against and repudiate the theory, either expressed or implied, that there exists any direct or indirect property right in workmen other than by the workmen themselves, and in defense of our position upon these great fundamental principles made sacred by history and traditions, we pledge our united efforts.

"We commend the action thus far taken by the President and the Executive Council, in taking the necessary steps to maintain our constitutional rights. Your committee believes it is of vital importance that this suit be fought to a successful termination, and, therefore, to raise an available fund for that purpose, we recommend that this convention authorize the President and the Executive

432 Council to issue a special assessment of one cent per capita, and that the President and the Executive Council aforesaid be further authorized to make such other and further assessments, should occasion require as they in their judgment may deem necessary."

"Delegate RAMSAY: I move the adoption of the report.

"The motion was seconded and carried by unanimous vote of the convention."

Can you by looking at it say whether or not you recall that? A. Yes, I remember that committee report.

Q. 17. And that it was carried? A. Yes, sir.

Q. 18. Did you vote for it? A. I believe I did.

Q. 19. Now, Mr. Hayes, a question or two further: Are you the editor of the Cleveland Citizen, published by the United Trades Labor Council of Cuyahoga County, Ohio? A. Yes, sir.

Q. 20. Are you a member of the Board of Control? A. Yes, sir.

Q. 21. How long have you been editor of that publication? A. Why since its inception, about 16 years. I was associate editor for a short period, and then was promoted to editor. About sixteen

433 years. Q. 22. I call your attention to the original record in this case, at pages 436, 437, 438, 439 and 440, being pages 255,

and 256 of the transcript of the record in the District Court of Appeals, and call your attention to a circular which is marked "Exhibit U," which appears to have been published in the issue of the Cleveland Citizen December 7, 1907, and ask whether or not you recall that circular, and whether or not it was published in your paper (record handed to witness)? A. Well, now, I wouldn't be certain as to whether that was published or not until I look up the files. We do not publish all the circulars that come from headquarters.

Q. 23. If it appears in that issue to have been published, did you have it published? A. Well, yes. Sometimes the circulars are published in this way: They are read before the Trades Council, and a motion is made to have it printed in the official organ, that is the Citizen, and in that way it is printed.

Q. 24. If it was published, did you have it published? A. Oh, yes, we printed it.

Q. 25. As editor? A. Yes, as editor, under instructions from the Trades Council.

Mr. DAVENPORT: Well, now I ask that this be inserted in the record, a copy of Exhibit U.

Said "Exhibit U" is as follows:

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"(EXHIBIT U.)

Official.

"The Buck's Stove.

"To All Organized Labor and Friends:

"You undoubtedly are aware of the fact that the interests of the foundry employes and metal polishers have been greatly injured on account of the hostile action of the Buck's Stove & Range Co., of St. Louis, of which Mr. Van Cleave is president, and he is also president of the National Association of Manufacturers.

"As you are well aware, so inimical to the welfare of Labor was the Buck's Stove & Range Co's management that the organization concerned felt obliged to declare the product of that company unfair. The workmen's organization appealed to the American Federation of Labor to endorse its action. After due investigation that endorsement was given and is still affirmed. The circumstances leading to this action are so widely known that they need not be here recounted.

"Mr. Van Cleave, for the Buck's Stove & Range Co., brought suit against the American Federation of Labor and its executive council and has petitioned the court for an injunction to prohibit the American Federation of Labor from in any way advising organized labor and its friends of the fact that the Buck's Stove & Range

Co. is unfair to its employes and for that reason its name is published upon the American — of Labor 'We don't Patronize List.'

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"The court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove & Range Co., upon the 'We Don't Patronize List.' Should we be enjoined by the court from doing so, the merits of the case will not be altered nor can any court decision take from any man the right to bestow his patronage where he pleases.

"Mr. Van Cleave, president of the Buck's Stove & Range Co., also president of the National Association of Manufacturers, is raising a war fund of one million and a half dollars to crush organized labor. You already know the attempts that have been made with a part of that money to assassinate to characters of the active men in the labor movement, to corrupt them and buy them over, much of which was exposed at the recent Norfolk convention of the American Federation of Labor and more of which will be published in a pamphlet about to be issued.

"Bear in mind that you have a right to decide how your money shall be expended.

"You may or may not buy the products of the Buck's Stove & Range Co.

"There is no law or edict of court that can compel you to buy a Buck's stove or range.

436 "You can- be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove & Range Co's products of its unfair attitude towards its employes and ask them to give their sympathy and aid in influencing the Buck's Stove & Range Co. to deal fairly with its employes and come to an honorable agreement with the union primarily at interest.

"It would be well for you as central bodies, local unions and individual members of organized labor and sympathizers, to call on business men in your localities, urge their sympathetic co-operation and ask them to write to the Buck's Stove & Range Co., of St. Louis, urging it to make an honorable adjustment of its relations with organized labor.

"Act energetically and at once. Report the result of your effort to the undersigned.

"SAMUEL GOMPERS,

"Pres't American Federation of Labor.

"FRANK MORRISON, *Secretary.*

"By order of the Executive Council of the American Federation of Labor."

Q. 26. Now, I show you two copies of the Cleveland Citizen, one dated Saturday May 30, 1908, and the other dated September 19, 1908, marked "Exhibit No. 1 H. D. T.", and attached to the deposition of Harry D. Thomas, and ask whether or not you recognize that as an issue of that publication (paper handed to witness)? A. Yes, that is the Citizen.

Q. 27. I direct your attention to the fifth column on the second page of "Exhibit No. 1, H. D. T." to what is under the heading, "A. F. of L. Unfair List," and ask you whether you caused that to be published? A. Yes.

Q. 28. And to the fifth column on page *on page* 3 of "Exhibit No. 2, H. D. T." being an issue of Saturday, September 19th, of the Cleveland Citizen and ask whether you caused that to be inserted and published (paper handed to witness)? A. Yes.

Q. 29. I show you another copy of that publication, dated Saturday, August 1, 1908, and ask whether you identify it as an issue of that publication (paper handed to witness)? A. Yes.

Mr. DAVENPORT: I ask that this be marked "Max S. Hayes, Exhibit No. 1."

Said exhibit is hereto attached and made a part of this Deposition.

Q. 30. I direct your attention to the fifth column on page 3 of that issue to the words "A. F. of L. Unfair List," and what is under it, and ask whether you caused that to be published? A. Yes.

438 Q. 31. I call your attention to what appears on pages 699, 700, and 701, of the original record in this cause, being pages 398 and 399 of the printed transcript of the record in the Court of Appeals, to an article, "By Max Hayes," and ask whether or not you wrote that (record shown to witness)? A. Yes, I wrote that.

Said article is as follows:

"WORKINGMEN, AWAKE!"

"Organize Politically to Safeguard Your Rights and Prepare for the Greater Struggle for Emancipation.

(By Max Hayes.)

"The boycott is an illegal conspiracy!

"The National Association of Manufacturers and its score of allied employers' organizations secured their first victory in the great legal battle that has been in progress in the Equity Court of the District of Columbia for several months.

"A dispatch from Washington on Tuesday says:

"Of far-reaching importance to labor and business interests throughout the country was a decision announced today by Justice Gould of the Equity Court of the District of Columbia, enjoining the American Federation of Labor, with its membership of 2,000,000 or more, from boycotting the Buck's Stove & Range Co., of St. Louis, and from printing in its official organ the company's name in 'unfair' and 'we don't patronize' lists. The decision arraigns
439 the action of the Federation as an illegal conspiracy.

"The injunction granted today, while of a temporary character, was allowed in a decision in which Judge Gould exhaustively reviewed the case, made copious citations of authorities, quoted precedents as to boycott definitions, and said there was no room for

argument as to the conspiracy alleged being established. The question of a permanent injunction will come up probably next spring, and whichever side wins in the final settlement, the case, it is believed, will be appealed to the Supreme Court of the United States.

"Judge Gould pointed out from the bench today that he had not, in his decision, taken up the question of inhibition of the boycott under the Sherman anti-trust law or the interstate commerce act.

"Attorney J. H. Rakston of counsel for the Federation, said tonight he had no opinion to express regarding the decision, that the injunction was a temporary one, and that insofar as the question as to the Sherman law or the interstate commerce law was concerned, he regarded the decision, as affecting that phase of the case, a victory for the defense.

"Former Assistant Attorney General Buck, for the prosecution, regarded the decision as a sweeping victory for the opponents of the boycott.

440 "Judge Gould also handed down two opinions granting permanent injunctions in the case of Bender against the Bakers' and Confectioners' Union, and Lawton against the International Carriage and Wagon Workers, two local cases, which the court decided along the same lines as the stove company case."

"From the foregoing report of a most momentous decision we may assume that, if the boycott is an 'illegal conspiracy,' those who instigate and advocate boycotting may be not only liable for damages sustained, but may also be prosecuted in the criminal courts and penalized accordingly.

"Everybody in the labor movement knows that the moment the Supreme Court confirms the decision of the lower Court, and prohibits workmen from notifying their fellows and sympathizers who is unfair and whose product to 'let alone,' that moment spells the doom of the present form of trade unions. Rob the workers of the right to act in concert to resist the encroachments of their oppressors and you take from labor its most efficient weapon of defense.

"We can hardly realize that capitalism will abuse its power to the limit of prohibiting labor from exercising its rights of free speech and a free press to make known those who deal unfairly with union working people.

441 "And yet, when we consider the historical fact that in all ages the privileged few in control of the governing powers utilized their every opportunity to brutalize and tyrannize the masses, we need not feel surprised if the American plutocracy resorts to every method within reach to subjugate the workers.

"The truth of the matter is, past experience has proven that the higher law cases are carried the less chance the common people have to obtain justice in accordance with their interpretation of equity. Therefore, we have small hope that the United States Supreme Court will reverse the decision of the Equity Court of the District of Columbia.

"In view of this latest blow at Organized Labor, let us hear no more of the maudlin twaddle that there are no classes in this country.

The capitalist class is in control of the government, and uses its great powers to prohibit the workers from doing the very thing that capitalism is practising daily.

"The time has come for the working people, who are the overwhelming majority, to wrest control of the governing forces from the capitalist to safeguard their rights and perpetuate liberty for posterity.

"Organize politically."

Q. 32. And in what did you have it published? A. In the Citizen.

Q. 33. In the Cleveland Citizen? A. Yes, sir.

Q. 34. Are you able to state the date? A. No, not off-
442 hand; it was shortly after the proceedings in Washington. An Associated Press dispatch I think served as a basis for the article.

Q. 35. It appears by this record here that it was copied in the St. Louis Labor in the issue of September 28, 1907. The date of the injunction, or the date of the announcement of the decision of Justice Gould, was December 17, 1907. Did you publish it in the next issue? A. I probably published it on Saturday, about the 22nd.

Q. It was probably in the issue of— A. December 22nd.

Q. 37. Do you know how many members there are in the United Trades Labor Council? A. Why, no, I am not in a position to say offhand what the membership is. I am not secretary or an officeholder in the body.

Cross-examination of MAX S. HAYES.

By Mr. RALSTON:

X Q. 1. Mr. Hayes, you have stated, I believe, that you are editor of the Citizen? A. Yes, sir.

X Q. 2. How long have you been editor? A. About 16 or 17 years.

X Q. 3. Mr. Hayes, is the Citizen published under the con-
443 trol of the American Federation of Labor? A. No, sir.

X Q. 4. Under the control of your local concern, isn't it? A. Yes, the Trades Council.

X Q. 5. Have either Mr. Samuel Gompers, Mr. John Mitchell, or Mr. Frank Morrison anything to do with its publication? A. Absolutely none.

X Q. 6. Have they any control over what you put in or leave out? A. Nothing.

X Q. 7. Have they any business connection with it? A. None whatsoever.

X Q. 8. Have any of the heads of the American Federation of Labor any association with it? A. None.

X Q. 9. Is its policy dictated in any degree outside of the membership of its local Board of Control? A. No, sir.

X Q. 10. Have you any acquaintance with the relation of James W. Van Cleave to the complainant, the Buck's Stove & Range Com-

pany? A. Why, none, except what I read about in the newspapers.

X Q. 11. That is, that he is president? A. Yes, sir.

X Q. 12. Do you know his relationship to the National Association of Manufacturers, and the Citizens Industrial Association, or
444 Alliance? A. Only as I read about it in the newspapers.

X Q. 13. Do you know whether he claims credit for having defeated pending labor legislation before Congress last Winter? A. Not any more than the claims that I have read in the paper.

X Q. 14. "American Industries," for instance? A. Yes.

Mr. DAVENPORT: I object to all testimony of this character as immaterial, irrelevant and incompetent, hearsay, and for which no foundation has been laid in the pleadings, and give notice that I shall move to have the same stricken from the record, and the cost of the matter put upon the defendants.

A. (Continued). I read the claims in a number of papers.

X Q. 15. Claims by Van Cleave and his association? A. Yes.

X Q. 16. Is it not true that the relations between Trade organizations and organizations represented by Mr. Van Cleave, are estranged, to say the least? A. Very much so.

X Q. 17. Is it not true that Mr. Van Cleave is in favor and seeking to destroy labor organizations? A. That is my impression.

X Q. 18. Through the organizations he represents? A. Yes.

X Q. 19. Can you tell us anything about the employment
445 of a blacklist in that connection? A. Give you the names of individuals?

X Q. 20. Do you know of its having been employed? A. Well, I have been so informed.

X Q. 21. Employed by the National Association of Manufacturers? A. That is the information that I received.

X Q. 22. Do you know of that association having resisted the enactment of 8-hour laws? A. That was the report I received, yes, sir.

X Q. 23. Do you know its attitude towards child labor laws? A. Antagonistic.

X Q. 24. What has been its attitude with regard to what are known as anti-injunction bills? A. Opposing them.

X Q. 25. Have the Trade Unions asked, so far as anti-injunction legislation is concerned, anything more than is now the statute law in England? A. I believe not.

MAX S. HAYES.

Mr. DAVENPORT: I give notice that I shall move the Court to strike from the record the testimony of Mr. Hayes given in response to the questions of Mr. Ralston, relative to the relations existing between Mr. Van Cleave and the National Association of Manufacturers and towards organized labor, as immaterial, irrelevant, incompetent and hearsay, and not proper cross-examination, and as matter for which no foundation has been laid in the pleadings, and to put the costs of the matter upon the respondents.

447 In the Supreme Court of the District of Columbia.

In Equity. No. 27305.

THE BUCK STOVE & RANGE COMPANY, Complainant,

vs.

THE AMERICAN FEDERATION OF LABOR ET AL., Defendants.

Be it remembered that at an examination of witnesses begun and held on the 11th day of September, 1908, pursuant to agreement, and at other times agreeably to adjournments and notice, personally appeared before me, Albert Harper, an Examiner in Chancery of the Supreme Court of the District of Columbia, the within-named Frank Morrison, Samuel Gompers, John Mitchell, Charles B. Matthews and Russell B. Patterson (the said Charles B. Matthews and Russell B. Patterson being produced as witnesses of lawful age for and on behalf of the complainant), who, being first duly sworn and cautioned to tell the truth, the whole truth, and nothing but the truth touching the matter at issue under the petition filed July 20, 1908, and the answers thereto, in the above-entitled cause, did depose and say as follows:

448 *Testimony on Behalf of Complainants.*

Filed November 10, 1908.

In the Supreme Court of the District of Columbia.

In Equity. No. 27305.

THE BUCK'S STOVE & RANGE COMPANY, Plaintiff,

vs.

THE AMERICAN FEDERATION OF LABOR ET AL., Defendant.

HEADQUARTERS OF THE AMERICAN FEDERATION OF LABOR.

WASHINGTON, D. C., *September 11, 1908,*

Friday, 10 o'clock a. m.

Met pursuant to agreement.

Appearances.—Daniel Davenport, Esq., of Solicitors for the petitioners; Jackson H. Ralston, Esq., of Solicitors for the Respondents, of whom Messrs. Samuel Gompers, Frank Morrison, and John Mitchell are present; and also the Examiner.

Whereupon, at the request of Jackson H. Ralston, Esq., of Solicitors for Respondents, after the oath had been administered by the Examiner to the said Samuel Gompers, Frank Morrison and John Mitchell, adjourned to—

SEPTEMBER 11, 1908—Friday, 8 o'clock p. m.

Met pursuant to adjournment.

Appearances.—Daniel Davenport, Esq., of Solicitors for
449 the Petitioners; Messrs. Ralston & Siddons, of Solicitors for
Respondents, of whom Messrs. Samuel Gompers, Frank Mor-
rison, and John Mitchell are present; and also the Examiner.

And thereupon FRANK MORRISON, one of the respondents, having
been duly sworn, deposes and says:

By Mr. DAVENPORT:

Q. Please state your name, age, residence and occupation. A.
Frank Morrison; 48 years old; 314 Maryland Avenue, Washing-
ton, D. C., occupation, Secretary American Federation of Labor.

Q. Are you one of the defendants in the suit of the Buck's Stove
& Range Company against the American Federation of Labor and
others? A. Yes, sir.

Q. Are you one of the respondents or defendants in this contempt
proceeding? A. Yes, sir.

Q. Do you remember when this suit was first brought against
yourself and the American Federation of Labor; do you remember
the date? A. I do not.

Q. Do you remember that it was brought? A. I remember that
such a suit was brought.

Q. And was a copy of the complaint furnished you?

450 Mr. RALSTON: I object to this course of examination as
immaterial. The sole question here is the contempt.

Mr. DAVENPORT: In regard to these objections do you not want
a general reservation?

Mr. RALSTON: I think I will call attention on the record from
time to time to them rather than to interpose any general objections.
Objections may be of various kinds.

The question was repeated by the stenographer as follows: "Was
a copy of the complaint furnished you?" A. I believe it was.

By Mr. DAVENPORT:

Q. Did you read it? A. I did.

Q. Throughout? A. Throughout.

Q. Do you recollect whether or not you published it in the Fed-
erationist? A. I have nothing to do with the Federationist in the
matter of publication.

Q. Do you know whether or not it was published in the American
Federationist? I do not know myself. A. I have no recollection
at this time.

Q. Do you remember the occasion when Judge Gould rendered
his opinion in the case, on the application for a temporary injunc-
tion? A. I remember a temporary injunction was issued.

Q. Do you remember the occasion when he rendered his decision?

451 Mr. RALSTON: Is this to test the witness' memory?

Mr. DAVENPORT: To get the fact.

The WITNESS: I cannot say that I remember the occasion.

By Mr. DAVENPORT:

Q. Were you present in Court? A. I was present in the Court; the only time I recollect of being present in the Court was when our attorneys asked for a modification of the order.

Q. I was coming to that; but do you remember that on the 17th of December, 1907, Judge Gould filed in Court his opinion and decision in the case? A. I remember such an opinion, but I do not remember the date.

Q. Did you read it? A. I did.

Q. Throughout? A. Throughout.

Q. And were familiar with its contents? A. The general gist, so far as I could gather from reading.

Q. Did you understand at that time that in concluding his opinion he said that "upon the record presented, and for the reasons stated, I am of opinion that the plaintiff is entitled to be protected by an injunction until the final hearing of the case, and I will sign an order restraining the defendants, substantially as prayed in the bill."? A. I do not quite understand.

Q. Do you remember that he so announced in his decision? A. Well, I remember of reading the decision and remember
452 that it was that the Buck's Stove & Range Company should not be boycotted.

Q. Do you remember that the day following his opinion Judge Gould signed an order of a temporary injunction, that it was filed in Court? A. I remember that he filed a temporary restraining order but I do not recall the date.

Q. Do you recollect whether it was immediately after the day following the opinion? A. No, I do not recall that.

Q. Did you read the injunction order that he granted? A. I did.

Q. Throughout? A. Throughout.

Q. Do you know whether Mr. Gompers read it at the time? A. I do not.

Q. Do you remember the circumstances of the filing of the bond as provided in the order by the Buck's Stove & Range Company? A. I remember that it required the filing of a bond.

Q. Did you understand that the bond was filed? A. I believe that the bond was filed during my absence from the city. I was in Canada. That is my recollection.

Q. When did you leave for Canada? A. I left sometime before Christmas. I was in my home at Christmas.

453 Q. Can you not remember the date you left for Canada?

A. No, I cannot remember it just now. I can discover that, though.

Q. I wish you would. A. I can find that.

Q. Do you recollect how soon before Christmas you left? A. I think that I arrived at my home the day before Christmas.

Q. That would be the 24th of December. A. The day before Christmas.

Q. How long did it take you to get up there? A. Between a day and two days as I recall now.

Q. Do you remember the day of the week you started? A. No, I do not.

Q. Did you leave on the 23rd of December? A. I do not remember when I left; but, as I say, I can discover that.

Q. Did you know before you left that the bond had been filed? A. I did not.

Q. Did you know that after the order was entered Messrs. Ralston & Siddons and Mr. Spelling, in your behalf, filed a motion to amend the order? A. I have no distinct recollection.

Q. You said you were in Court when the matter was heard. A. No. My recollection is that I was in court when Mr. Ralston asked that the judge inform the defendants as to the extent of the order.

Q. Let me see if this will refresh your recollection. (Reading from transcript of record, at page 96.)

"In the Supreme Court of the District of Columbia.

Equity. No. 27305.

BUCK'S STOVE & RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

Now come the defendants by Ralston & Siddons and T. C. Spelling, their solicitors, and move the Court to amend and correct the order passed herein on December 18, 1907, granting an injunction *pendente lite* in the following respects and for the following reasons:

1. The said order is erroneous in that it is made to run until the final decree in the said cause, instead of until the further order of this Court.

2. The said order is erroneous in that by its terms it may be construed to enjoin the defendants from uniting together to agree not to patronize plaintiff's products.

3. The said order is erroneous in that it might be construed to prevent the defendants and their associates from saying to others that they had united and combined not to patronize the products of the plaintiff.

4. The said order is erroneous in that it might be construed to enjoin the defendants from announcing to others that they had united and combined not to deal with others who should deal with plaintiff or purchase its products.

5. The said order is erroneous in that it abridges freedom of speech of all the defendants, which is protected by the first amendment to the Constitution of the United States.

6. The said order is erroneous in that it abridges freedom of the press of all the defendants, which is protected by the First Amendment to the Constitution of the United States.

RALSTON & SIDDONS,
T. C. SPELLING,

Defendant's Solicitors."

Do you recollect that? A. I have no special recollection of that.

Q. Do you remember that an application was made to amend the order? A. I remember something about an effort being made to get the Judge to make a statement as to how far the order extended.

Q. Did you learn or know of a hearing afterwards on that application, and that the Judge denied the motion? A. I understood that the judge refused to make any modification or change from his decision.

Q. I will call your attention to the terms of this order. (Reading:)

"Supreme Court of the District of Columbia.

Equity. No. 27305.

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THE BUCK'S STOVE AND RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

This cause coming on to be heard, on the motion of the defendants, to modify the order heretofore passed in this case, granting an injunction *pendente lite*, as prayed in the bill, and having been argued by the solicitors for the parties respectively, and duly considered, it is thereupon by the Court, this 10th day of January 1908, ordered that the said motion be and the same is hereby denied.

ASHLEY M. GOULD,

Justice."

Did you ever apply to Judge Gould or to the Supreme Court of the District of Columbia for any other modification of that injunction?

Mr. RALSTON: I would suggest that the record proves this.

Mr. DAVENPORT: I say, did you——

A. That matter was left on the application of the attorney.

By Mr. DAVENPORT:

Q. With the attorneys; yes; but did *you* — for any modification or construction of the order?

Mr. SIDDOXS: Did he what?

Mr. DAVENPORT: Did he apply to the Court, to Judge Gould or to the Supreme Court of the District of Columbia?

Mr. SIDDOXS: Do you mean in person?

457 Mr. DAVENPORT: In person:

The WITNESS: Separately?

Mr. DAVENPORT: Yes.

The WITNESS: I did not.

By Mr. DAVENPORT:

Q. So that, so far as you know, no other application was made on your behalf for any interpretation or construction or modifica-

tion by the Court of its decree or order? A. None other than was made by our attorneys.

Q. Did you know that after the original bill was filed in the case of the Buck's Stove & Range Company against the American Federation of Labor and other-, an application was made for a temporary injunction by the attorneys for the petitioner? A. Yes, sir. I was under that impression.

Q. And were you present in Mr. Darlington's office about the first of November? A. I was present in Mr. Darlington's office with our attorneys.

Q. On the occasion when the testimony was being taken; do you remember that? A. I remember I was there. I do not remember the date, nor the time.

Q. Do you remember that that was shortly before the meeting of the convention of the American Federation of Labor at Norfolk, in November, 1907?

Mr. RALSTON: We note an objection to this course of examination. The issue before the Court is simply whether Mr. Morrison and the other respondents have or have not been guilty of contempt and a rehearsal of all the steps that have been taken in this case is not involved.

The question was repeated by the stenographer as above recorded.

A. I remember that there was a meeting prior to the convention.

By Mr. DAVENPORT:

Q. And that it was shortly before, a few days before? A. Some time before. I don't recollect now.

Q. Did you attend the session of the convention? A. I did.

Q. And as Secretary of the American Federation of Labor was it your duty to act as Secretary of the Convention? A. I was Secretary of the Convention.

Q. That is, in pursuance of the terms of your constitution, is it not? A. I act as Secretary of the American Federation of Labor.

Q. Yes, and Secretary of the convention? A. Yes, sir; I was Secretary of the Convention.

Q. By virtue of your office? A. By virtue of my office, yes.

Q. How long was that convention in session? A. 12 days.

Q. What date did it begin? A. It commenced on Monday and terminated two weeks from that day, Saturday.

459 Q. Do you remember the date of the commencing—the ninth, was it not? A. I believe it was the 11th. I am not sure about that.

Q. Have you a copy of your record? A. (After reference to a bound volume.) The record shows November 11th to 23rd inclusive.

Q. November 11th to 23rd inclusive, 1907? A. Yes, sir.

Q. Is this document an official copy of the record of the proceedings? A. An official copy of the report of the proceedings, yes.

Q. Made by you as Secretary? A. Published—

Q. Not published but made by you as Secretary, your report? A. Well, it is signed by me as Secretary, but it was taken down by a stenographer and printed——

Q. Oh, certainly, but after it was taken down and transcribed, did you give it the approval of your official—— A. Those are the official proceedings.

Q. Were you present during the sessions of the Convention? A. Yes, sir.

Q. Did you know what the contents of this book were? A. In a general way.

460 Q. Particularly? A. There might be some things in that that I do not recall.

Q. At the time were you conversant with the proceedings? A. Oh, yes.

Q. Which you were to certify to as the Secretary. A. Yes.

Q. As Secretary of the American Federation of Labor, are you a member of the Executive Council? A. I am.

Q. Did you meet with them during their sessions, during the year 1907? A. I did.

Q. Were you familiar with the report of the executive Council that was made to the Convention that year? A. I was.

Q. I do not know whether you prepared it or not. Did you do the formal work of preparing it, putting it in shape to be presented to the body? A. It was passed upon by the Executive Council.

Q. But did you know its contents particularly? A. I read the proceedings. I read the report.

Q. Did you read through the report of the proceedings of the Convention before they were finally revised and printed and published? A. I did not read them but I went over them to see if they were correct?

461 Q. And you found them so? A. Well, the Secretary's reports are always correct.

Q. I want to call your attention to certain portions of this report of the Executive Council, page 91, as follows:

“We Don't Patronize List.

“Applications to endorse the placing of the following firms upon the unfair list of the American Federation of Labor have been made to and approved by the Executive Council, from October 1st, 1906, to October 1st, 1907:

“Buck's Stove & Range Company, St. Louis, Missouri; [International Brotherhood of Foundry Employes].

Did you know that that was in there? A. Well, I knew that the list that was published in the Federationist was in there.

Q. And that the Buck's Stove & Range Company was on that list? A. I don't remember of giving that any special thought at the time, that it was in there.

Q. You knew it? A. What?

Q. That it was in there. A. That it was in that list?

Q. Yes. A. I knew it was in?

Q. Yes. A. I knew that it had not been ordered left out.

Q. And you supposed it was in there? A. Yes, I supposed it was in there.

462 Q. Had it also been published in the *Federationist* that during some months previous to November 1907? A. I did not handle the list.

Q. Did you suppose it was published in the *Federationist*?

Mr. RALSTON: Objected to as immaterial. What he supposed is certainly immaterial. The question is what he knew and what he did, and what he did after the order was signed.

By Mr. DAVENPORT:

Q. I ask you if you supposed it would be in there?

Mr. RALSTON: The witness is not called on to guess, even to oblige Mr. Davenport.

A. I did not give it any consideration at all.

By Mr. DAVENPORT:

Q. Well, you knew you had been sued by the Buck's Stove & Range Company because it was on that unfair list, did you not? A. On account of the boycott?

Q. On account of its being on the unfair list of the American Federation of Labor and published in the *American Federationist*, did you know that? A. Yes, yes. If you had presented me with the question ahead of time I would have been able to furnish you more definite answers, perhaps.

Q. Well, I guess we will get along. In that convention was a resolution, resolution No. 49, reported by the Committee on Resolutions, or a Committee of the Convention, which resolution 463 is now found on page 212 of the report of the proceedings of the American Federation of Labor for the year 1907, which you handed me? A. You say there was a resolution?

Q. Was not that resolution, in point of fact, reported? A. Resolution 49, the record shows, was adopted.

Q. Reported and adopted. And was it included by you in this report of the proceedings? A. All the proceedings in regard to resolutions and actions thereon were included.

Q. Well, was that included; if all were included, was that included? A. It is in the proceedings there; it must have been.

(Pamphlet produced as an exhibit and marked Exhibit A. H. No. 1, same being, "Report of the proceedings of the 27th annual convention of the American Federation of Labor, held at Norfolk, Virginia, November 11 to 23 inclusive, 1907.")

By Mr. DAVENPORT:

Q. I want to call your attention particularly to the terms of this resolution as thus reported and adopted, Resolution No. 49, by delegate A. B. Grout, James J. Dardis, of the Metal Polishers, Buffers, Platers, etc. (Reading:)

"Whereas, The Buck Stove and Range Co., of St. Louis Mo., of which J. W. Van Cleave is President has attempted to disrupt the Metal Polishers, Buffers, Platers, Brass Moulders, Brass and Silver Moulders Union of North America, and in pursuance of said
464 object has arbitrarily abolished the nine-hour workday, which has existed in factory for over eighteen months, and instituted a ten-hour workday.

"Whereas, The Said J. W. Van Cleave, the president of the said company is also president of the National Manufacturers' Association an organization which constitutes a small minority of the manufacturers of the country, and which has declared its hostility against all labor organizations, and it was through the recommendations of the said J. W. Van Cleave that the said Manufacturers' Association has undertaken to raise a fund of \$1,500,000 in 3 years for the alleged purpose of education, but which at the present time is being used under the direction of said J. W. Van Cleave in an attempt to disrupt the labor organizations of the country, especially the Metal Polishers, Buffers, Platers, Brass and Silver Workers' Union of North America as well as the International Brotherhood of Foundry Employés, with whom his company has a dispute and,

"Whereas, It has come to our knowledge that the funds of the Manufacturers' Association are being expended under the said Van Cleave's direction for the employment of detective bureaus throughout the United States who are now conducting a campaign of villification and slander against the officers and members of labor organizations for the purpose of creating distrust among the entire membership and to deceive and mislead them. Therefore, be it

"Resolved, That each central body affiliated with the A. F. of L. be and is hereby requested to appoint a committee who shall conduct and manage a "campaign of education" among the mem-
465 bership affiliated with their central body, as well as dealers in stoves and ranges in their locality and thoroughly inform them of the entire facts of the disputes between the Metal Polishers, Buffers, Platers Brass and Silver Workers' Union of North America, the Brotherhood of Foundry Employés, also as to the attitude of J. W. Van Cleave and the Manufacturers' Association toward organized labor. Be it further

"Resolved, That the said committee shall report on the first of each month to the officers of the A. F. of L. the progress of the "campaign of education," together with a complete list of all dealers in their locality who are handling and selling the product of the Buck Stove and Range Company. Be it further

"Resolved, That all Commissioned organizers of the A. F. of L. shall report on the first of each month to the officers of the A. F. of L. the progress made in 'this campaign of education' by the different committees of the different central bodies in their respective districts, and also render such aid to all committees as lay in their power."

It appears by this same report of the proceedings, on the preceding page, that President Gompers was in the Chair. That Mr. Gompers is the Mr. Samuel Gompers, one of the defendants in this

suit, and one of the respondents in this contempt proceeding. Is this a correct statement of the fact that he was then in the Chair?

A. It would be very difficult to state. The records show who was in the Chair. The President very often calls some one else
466 to the Chair and is absent himself at times.

Q. But in this particular instance, I want to know now whether you have any independent recollection of the facts of that report? A. No, I have not.

Q. You have not? A. No. The same as any other report on any other proposition.

Q. Of course when you made up these proceedings, I assume that you knew that that resolution was in there, with the action of the convention thereon? A. I have no special recollection of that resolution, no special recollection at this time. I knew, though, that all resolutions adopted or acted upon were in there.

Q. Did you not know that that resolution was adopted and did you not proceed to act under that resolution in anything that you subsequently did? A. I have no recollection of acting on the lines of that resolution.

Q. I call your attention to the following in this record, this report of the proceedings of the American Federation of Labor on page
215.

"Delegate Ramsay for the Special Committee read the following supplementary report:

"To the officers and Delegates of the Twenty-seventh Annual Convention of the American Federation of Labor:

"Your special committee to which was referred the subject matter of the suit of the Buck Stove and Range Company, begs
467 leave to make the following supplemental report:

"Referring to Resolution No. 49 hereto attached by Delegates A. B. Grout and James J. Dardis of the Metal Polishers, Buffers and Platers Union relative to a 'campaign of education' we fully agree with the purpose of the resolution, but recommend that the details and manner of carrying out the spirit and object of the resolution be left in the hands of the President and the Executive Council.

Respectfully submitted,

FRANK DUFFY, *Chairman.*
D. G. RAMSAY, *Secretary.*
JOHN P. FREY.
S. L. LANDERS.
JOHN A. MOFFITT.
JOHN T. SMITH.
JOHN FITZPATRICK.
EMMET T. FLOOD.
GEORGE FINGER.
J. D. NOYES.
W. D. MAHON.
JERE L. SULLIVAN."

Then it continues: "On motion the report of the Committee was concurred in." Did you know that such a resolution as that was passed? A. I did.

Q. I will ask you again whether you cannot now recall if you subsequently took action yourself in company with Mr. Gompers— A. What page is that?

Q. Page 215. A. I have no recollection of taking any action. Now, in regard to that—

Q. Do you not remember a circular that was sent out on the 26th day of November, referring to this action? A. That is on the campaign of education, I have no recollection of any action being taken—

Q. Well, you knew that this resolution was adopted and was included in the report of the proceedings? A. I did.

Mr. RALSTON: May I correct you? I might as well do it at this point as any other. I think the report does not show that that resolution No. 49 was adopted.

Mr. DAVENPORT: Oh, yes, it does. I just read it and he says it was adopted.

The WITNESS: I said the record said so. Let us see. I may be mistaken. What was the number?

Mr. DAVENPORT: You will find it at the bottom of page 212 and at the head of page 213. The motion was made and seconded that the report of the Committee be concurred in.

Mr. RALSTON: What is the report of the Committee?

Mr. DAVENPORT: The committee recommended the adoption—will read it again.

"The committee recommended the adoption of resolution No. 49, when amended to read as follows."

"A motion was made and seconded that the report of the Committee be concurred in."

169 "The question was discussed by Delegate Groat and Vice President Duncan.

"The motion to concur in the report of the Committee was carried."

Mr. RALSTON: The report refers the matter to Mr. Duncan.

Mr. DAVENPORT: No, it does not; that is another report.

The WITNESS: You mean a supplementary report?

Mr. DAVENPORT: Yes, that the execution of this resolution should be left to the judgment of the President and Executive Council. The language is:

"We fully agree with the purpose of the resolution, but recommend that the details and manner of carrying out the spirit and object of the resolution be left in the hands of the President and Executive Council."

"On motion the report of the Committee was concurred in."

Now, Mr. Morrison, will you turn to pages 9, 10, 11, 12, 13 and 14 of this report of the proceedings, and state whether or not that is a correct list of the delegates at that convention? A. That is a correct

report of the Credential Committee, the report that the Committee on Credentials made.

Q. Yes, and was adopted. On page 14, "The original motion was adopted." Will you state whether or not that is a correct list of the delegates? A. That is the report of the Credential Committee as made to the convention.

470 Q. And adopted? A. Their report was adopted.

Q. With an amendment as stated at page 14. Now will you turn to the representations of the United Mine Workers of North America in that list. You will find it in the middle of the second column of page 10. A. Yes, sir.

Q. It appears that the following gentlemen were the delegates from that organization to the convention:

T. L. Lewis,	W. B. Wilson,
W. D. Ryan,	John T. Dempsey,
John H. Walker,	D. H. Sullivan.
G. W. Savage,	

Do you know any of those gentlemen? A. Yes, I do.

Q. Do you know whether those gentlemen there named were delegates? A. To the best of my recollection, they were.

Q. Do you know John H. Walker? A. I do.

Q. Do you know what state he resides in? A. Yes, sir.

Q. What state does he reside in? A. Illinois.

Q. As Secretary of the American Federation of Labor, is it your duty to receive reports from the officers of these different unions as to the number of members of which they are composed, so as to determine how many votes their delegates shall be entitled

471 to cast in the proceedings of the convention? A. No, sir; I do not receive a report in that shape, from the organizations.

Q. You do receive a report, do you not, under your constitution? A. No, it is not that way, it is on the money paid.

Q. Yes, on the money paid. A. I receive the money, that is my special duty.

Q. It states here that they are entitled to 2549 votes in the proceedings. Can you tell from that the membership of that organization? A. I could come pretty near telling?

Q. Approximate it as near as you can, please? A. Well, I don't know that I could even do that very well. I could approximate the average membership, perhaps.

Mr. RALSTON: I note an objection as to this matter, as it is entirely immaterial to the issue.

A. The organization has anywhere—it might run up to over 300,000.

By Mr. DAVENPORT:

Q. Approximately, then, 300,000? A. It might run up to that, but the average membership would be less than that.

Q. How much less? A. I could not say. Memberships fluctuate in unions.

Q. Were the proceedings of the convention from day to day printed and distributed among the members? A. You mean
472 the delegates?

Q. Well, delegates, yes. A. Yes, sir.

Q. That is to say, on each day of the convention they were all supplied or furnished with a printed copy of the proceedings of the preceeding day? A. Yes, sir.

Q. About how many delegates were there?

Mr. RALSTON: I would like to inquire of Mr. Davenport the object of this prolonged examination.

Mr. DAVENPORT: First, to establish the allegations of our petition, and, in the second place, as proper cross examination of Mr. Morrison.

Mr. RALSTON: Mr. Morrison is not offered for cross examination.

Mr. DAVENPORT: He offered himself when he verified this answer.

Mr. RALSTON: He is your witness.

Mr. DAVENPORT: No, he is not my witness, he has offered himself. He has verified that petition, and is a legitimate object of cross examination, either here or before the Court. But the materiality, while it may not be apparent to the gentleman, may appear later, and I think he will concede it may be material.

Mr. RALSTON: If it is desired to show that the American Federation of Labor embraces approximately 2,000,000 members, that is already in the case.

Mr. DAVENPORT: That is not the point at all. I am
473 talking now about the United Mine workers, whose President is one of the respondents here, and the convention of which took certain action.

Mr. RALSTON: We will admit in the neighborhood of three hundred thousand.

Mr. DAVENPORT: That is all right, but I have to draw this out from the witness. It is kind of you to admit it. I will take it therefore as admitted that the membership of the United Mine Workers, one of the affiliated organizations of the American Federation of Labor, or, as we allege and as Judge Gould finds, one of the constituent members of the American Federation of Labor, and whose members are members of the American Federation of Labor, is about 300,000.

By Mr. DAVENPORT: Now, Mr. Morrison, can you tell approximately the number of delegates in attendance at that convention?

A. 355, as the record shows.

Q. And were 355 copies of the proceedings of that day, or of each day, set forth in this report, distributed among the members? A. Yes, sir.

Q. Including these two resolutions to which your attention has been called? A. Yes, sir. I should judge the resolutions included—

Q. And of the report of the Executive Council to which your

attention has been called? A. And the report of the Executive Council.

474 Q. By whom were those proceedings printed? A. The daily proceedings?

Q. Yes. A. By the printer in Norfolk.

Q. Subsequently were all those proceedings brought together and published in one volume of which this is a copy? A. Yes, sir, for years.

Q. For years, but this particular convention, I understand that they were, and that this is a copy?

Mr. RALSTON: That is admitted.

Mr. DAVENPORT: Well, let the witness testify, he is here to purge himself, if he sees fit.

Mr. RALSTON: He is not here to purge himself; he is here as your witness.

The WITNESS: My answer is that they are printed daily and given to the delegates, that they are then printed in book form, and that that has been the custom for years.

Mr. DAVENPORT: I might say, incidentally, that they are an admirable production.

Mr. RALSTON: We will admit that also.

Mr. DAVENPORT: I will say, further, that as Secretary Mr. Morrison seems to be an extremely capable man.

Mr. RALSTON: We again admit that.

By Mr. DAVENPORT:

Q. By whom was the completed report of the proceedings, of which a copy is furnished, printed? A. By the Tribune printing company of Washington, by the Tribune of Washington.

475 Q. And where were they printed? A. In Washington.

Q. And what place? A. The Tribune Office.

Q. Well, what street and number, can you give it? A. I think it is on 13th Street. Mr. Rice is the manager.

Q. How many copies did you have printed? A. I think seven thousand—the usual number that we print.

Q. At what date was this volume completed? A. I am not certain in regard to that, but I can secure that information by making investigation. The information that I have is that they were delivered here on December 31st.

Q. Is that your impression, that they were delivered on December 31st? A. That is information I received.

Q. From whom? A. From one of the employés in the office.

Q. Well, what is the name of that employé? A. Frank Manning.

Q. Is he the gentleman whose business it is to receive them for you? A. To receive all matters of that kind.

Q. And his information to you was that they were received on December 31st, 1907? A. That is what he thought, December 31st.

476 Q. I notice in your return that you state that copies of these proceedings were sold from the office of the Federationist.

Mr. RALSTON: The question is objected to because it is not the language, with all due deference to Mr. Davenport.

By Mr. DAVENPORT:

Q. I will put it in the exact language of the sworn answer. He admits that copies of the proceedings of the Norfolk Convention and bound copies of the American Federationist for 1907, containing the names on that "I don't Patronize List," of the American Federation of Labor may have been sold from the office of the Federationist. What did you do with those 7,000 copies received here? A. I didn't do anything with them. The usual custom is that the proceedings are printed and a copy sent to each one of our directly affiliated unions, and in case where International Unions, want them they are paid for at a certain price, they are sent to them.

Q. The question I want to ask, and to which I want a definite answer from you,—and I have no doubt you will give it to me if you can—is this. What disposition have you made of the volumes of these proceedings? A. I could not tell you the exact disposition. We have a great number on hand.

Q. Did you send any of them, or were they sent by the employes here, to the different local unions, directly affiliated with the American Federation of Labor? A. I am not certain of that.

477 Mr. RALSTON: That is objected to. It is not shown that Mr. Morrison has any employes here.

By Mr. DAVENPORT:

Q. Is that the best answer you can give, sir? A. As to the matter of the local unions, I don't know the facts, but during the regular order some of the proceedings should go to the directly affiliated unions, in accordance with the usual custom.

Q. Do you know whether they were so sent? A. Of my own knowledge, I do not know.

Q. What was your information at the time?

Mr. RALSTON: That is objected to as calling for hearsay.

Mr. DAVENPORT: That is all right. I assume that you object to all this.

Mr. RALSTON: You are asking the witness to testify to something as to which he has no personal knowledge, and as to which he cannot testify from any information he has.

The WITNESS: I have no personal knowledge to whom these proceedings went, other than the usual custom.

By Mr. DAVENPORT:

Q. Well, according to the usual custom, to whom did they go? A. According to the usual custom they would go to the secretaries of the Internationals, the secretaries of central bodies, organizers,

and sometimes the locals directly affiliated with the A. F. of L., not the locals, affiliated with the Internationals, of course.

478 Q. After they were received, did you assume that they would go in the regular order to these people?

Mr. RALSTON: The assumption is objected to as immaterial in this case and not evidence.

A. I had no reason to believe they would not.

Q. You expected they would, did you not? A. You want to know what I expected?

Mr. RALSTON: The expectation is also objected to. Facts are involved here and not expectations or even suppositions.

By Mr. DAVENPORT:

Q. Answer the question please. A. You want my expectation?

Q. Yes, and the regular course. A. I will say that I expected that the regular course would be pursued, as in other years.

Q. And do you suppose now that the regular course was pursued?

Mr. RALSTON: The same objection. Surmises are not evidence.

A. I have no information.

Q. The question is what you suppose about it, and your belief about it.

Mr. RALSTON: Objected to, on the ground that the plaintiff cannot make up his case on suppositions, imaginations and beliefs.

A. Well, he can make up a pretty good book of testimony anyhow.

479 Mr. RALSTON: Oh, yes, if that is the object of it.

A. (Continuing:) The usual course, so far as I know, was pursued.

By Mr. DAVENPORT:

Q. That is sufficient. A. I thought I had given you that before, but I had no personal knowledge of that fact.

Q. Did you take any means to prevent its being done? A. In regard to the proceedings?

Q. Yes. Q. I did not.

Mr. RALSTON: He was in Canada at the time.

Mr. DAVENPORT: You are not a witness, Mr. Ralston.

Mr. RALSTON: But that is in his testimony. I call attention to that fact.

Mr. DAVENPORT: He has not stated he was in Canada at that time.

By Mr. DAVENPORT:

Q. When you went to Canada, had you prepared the material from which these were to be printed? A. It was in the hands of the printer?

Q. And had been sent there by you? A. Had been sent there by me, yes.

Q. And about what time were they placed in the hands of the printer? A. They were in the hands of the printer from the time of the adjournment of the convention until they were delivered.

Q. That is the 31st of December, 1907? A. Some part of 480 them.

Q. You expected that they would be printed and delivered here, did you not? A. Yes.

Mr. RALSTON: The same objection.

By Mr. DAVENPORT:

Q. And did you take any means to prevent their being sent to the persons that you have mentioned here, to whom they would go in the ordinary course of procedure in your office? A. I did not.

Q. In the January number of the American Federationist, it appears, according to the 16th paragraph of the petition, in the contempt proceedings, the following statement:

"The official proceedings of the Norfolk Convention of the A. F. of L. are now ready and can be had upon application, by mail, 25 cents per single copy, \$20 per hundred, postage prepaid by the A. F. of L."

Did you cause that to be inserted in the Federationist? A. I did not.

Q. Did you know that it was inserted? A. I have no special recollection that it was there.

Q. Have you any recollection whatever that it was there? A. None at all.

Q. In your sworn answer here you admit that it was there. A. 481 which sworn answer?

Q. To the contempt proceedings, the return to the rule to show cause. (Handing pamphlet to witness.) A. (After examination.) What section?

Q. The 16th paragraph. Having read your answer, do you wish to modify in any way your answer to the last question? A. No; I went over that carefully and I do not recollect when I read that whether I looked up the Federationist or not, just accepted that such a notice would possibly be in the Federationist. I took it for granted that that was true.

Q. The question now is whether you want to modify your last answer. Q. I will say that I know now it was in there. I will change it that way.

Q. Under article 7 of the Constitution of the American Federation of Labor, pertaining to the duties of Secretary, to be found on pages xvi and xvii of the volume, "Report of proceedings of the Norfolk Convention of the A. F. of L., November 1907," a copy of the Constitution is appended as an exhibit to the original complaint in this action, pertaining, I say, to the duties of Secretary, and it appears as follows:

"SECTION 1. The duties of the Secretary shall be to take charge of all books, papers and effects of the general office; to conduct the correspondence pertaining to his office; to furnish the elective officers with the necessary stationery; to convene and act as Secretary at the annual convention, and to furnish to the Committee on
482 Credentials at the Convention a statement of the financial standing of each affiliated body, to forward on March 1st and September 1st of each year to the secretaries of all affiliated organizations a list of the names and addresses of secretaries and organizers."

"SECTION 2. The Secretary shall keep all letters, documents, accounts, etc., in such manner as the annual convention may direct; he shall receive and collect all moneys due the Federation, and pay them to the Treasurer, taking his receipt therefor, provided that he may retain in his hands, a sum not exceeding \$2,000 for current expenses, which money shall be paid out only on the approval of the President."

Is it not under the constitution part of your duty as Secretary to have charge of the official report of the proceedings, which you stated? A. Yes, sir.

Q. Can you state how many copies of these proceedings, in number, were sent by you, or sent to various unions, and officers of the Federation of Labor? A. I could not say.

Q. Can you not give us any idea? A. Oh, yes.

Q. About how many, then? A. If the usual custom had been observed, probably between 2,000 and 2500.

Q. Can you give us the names of the individuals who actually sent them out? A. I could not. They were sent out from
483 our supply department.

Q. In this building? A. Yes, sir.

Q. They were brought here to the building and sent out by the supply department? A. Yes, sir.

Q. And do you know who was in charge of that? A. Mr. Manning is in charge now.

Q. Who was at that time in charge? A. Probably he was; I don't know. That could be easily found out, the information could be secured.

Q. Well, will you furnish it? A. I will.

Q. What disposition was made of other copies? A. We have them here.

A. All of them? A. Yes, all of them.

Q. How many have you left? A. I don't know.

Q. Have none been sent to anybody else? A. Oh, there may have been, if there were any purchased.

Q. Well, but don't you know? A. I do not.

Q. Have you taken pains to ascertain? A. It is possible, by going to our books, to discover it. Any that were sent were paid for by anyone who wanted to get them.

484 Q. You advertised them for sale. I want to know how many of them were sold? A. I don't know.

Q. Can you ascertain? A. Yes, I think I can, to a certain extent.

Q. Will you ascertain or refer me to the gentleman who can give me that information. A. Any information of that kind can be ascertained through the office, by going to the books and finding out.

Q. That is what I want to know, the number that have been disposed of and the dates of their disposition and distribution. A. Well, if we can secure the information, I have no objection to doing so.

Q. It is not a question of objection, it is a question of whether you will do it. A. Well, whether it is a physical possibility to do it without stopping the work of the Federation entirely——

Q. I do not know that that is necessary, but it is a very important piece of information. Can you give any idea, approximately, of how many are left undisposed of. A. I have not the least idea of how many are left, not even approximately.

Q. Have you taken any steps to prevent the sale of these to any person? A. I have not.

Q. And you suppose that in the usual course of things they
485 would be disposed of, sold? A. I think not.

Q. That they would not be purchased. A. No.

Q. Can you give us the information as to how many were sent out to the different persons that you say they were sent to, associations, libraries, or like institutions?

Mr. RALSTON: The question is objected to as proceeding upon a wrong hypothesis. It is not certain that any were sent.

Mr. DAVENPORT: He speaks of them being sent in the usual course of business——

Mr. RALSTON: That they may have been sent.

Mr. DAVENPORT: Can you give us any opinion on that?

A. If the usual course was pursued, one copy would go to the secretaries, and organizers.

Q. In addition to those that you have mentioned? A. No, no; I am talking now about those to whom they would go in the usual course.

Q. You say, "To associations, libraries, or like institutions." Mr. Gompers leaves out "associations." Do you refer there by "associations" to the different unions? A. I do.

Q. By whom was the Federationist for the month of December 1908 printed? A. The Law Reporter Company.

486 Q. Can you tell us how many were printed and received? A. President Gompers attends to the Federationist?

Q. Can you tell, as Secretary of the organization? A. He has full charge of the Federationist.

Q. Can you tell? A. Well, I could find out.

Q. Well, will you find out, then? A. I will try.

Q. Are you able to state, in a general way, how many there were? A. I will try to find out for you.

Q. I say now, can you state in a general way how large an issue

was printed? A. I would not care to make the statement, even in a general way, as to the number of copies that were printed.

Q. In the usual course of business, how is that business done? About how many are there? To whom are they delivered by the printer. A. They are delivered to the Federationist Department of the American Federation of Labor.

Q. Here, in this building? A. Yes sir.

Q. Are they then sent out from here? A. They are.

Q. Have you any knowledge of any of them having been sent out? A. Well, I have no—yes, I have knowledge of some that I sent out myself.

Q. When? A. Any copies that are over and above the
487 regular number that are sent to our organization and to our subscribers—if there happens to be a surplus, I then send them out; I then send them out as sample copies.

Q. Do you recollect having sent out those? A. Which?

Q. This January number of the Federationist? A. No; I gave direct orders that no surplus copies should be sent out.

Q. When did you give those orders? A. I returned from Canada and after I returned from Canada I gave the order. I have them now and will be pleased to sell them to you.

Q. How is that? A. I have them now and will be pleased to sell them to you?

Q. Are they on sale generally? A. No. This January number, as I understand—yes, that was the number that contained the Buck's Stove & Range Company on the unfair list, and we are enjoined from boycotting and issuing the Federationist with them on the unfair list, and for that reason I gave the order that that should not be—

Q. (Interrupting.) And when did you give that order? A. When I returned from Canada.

Q. Well, can you give the date? A. No; I just simply know that that—

Q. (Interrupting.) When did you return from Canada? A. I returned to the city on the first of January, if I recollect right.

488 Q. The first of January? New Year's Day? A. New Year's day.

Q. When did you give that order? A. It was after that. I do not know when, but I think just as soon as I returned and was informed that an injunction had been put on; that the bond had been put up and the injunction was on. I had no information, so far as I recollect, until I returned to headquarters.

Q. Now, Mr. Morrison, do you recall a circular that was sent out by you dated November 26, 1907, and signed by Mr. Gompers as President, and yourself, as Secretary? A. I don't know. We send out so many circulars. What particular circular? One appealing for funds?

Q. Let me call your attention specifically to the language of the circular. I will read it to you as it appears in the file in this case, and is to be found on pages 145 and 146 of the transcript of the record.

Mr. RALSTON: Can you save any time by letting the witness read?

Mr. DAVENPORT: I will read it to him and call his attention to it.

By Mr. DAVENPORT:

Q. I will read this to you now:

"WASHINGTON, D. C., November 26, 1907.

To All Organized Labor and Friends:

"You are undoubtedly aware of the fact that the interest of the laundry employes and Metal Polishers has been greatly injured on account of the hostile action of the Bucks Stove & Range Company of St. Louis, of which Mr. Van Cleave is president, and he is also president of the National Association of Manufacturers. As you are well aware, so inimical to the welfare of labor as the Bucks Stove & Range Company's management that the organization concerned felt obliged to declare the products of that company unfair. The workmen's organization appealed to the American Federation of Labor to endorse its action. After due investigation that endorsement was given and still further affirmed. The circumstances leading to this action are so widely known that they need not be here recounted. Mr. Van Cleave, for the Bucks Stove & Range Company, brought suit against the American Federation of Labor and its Executive Council, and has petitioned the court for an injunction to prohibit the American Federation of Labor from in any way advising organized labor and its friends of the fact that the Buck's Stove & Range Company is unfair to its employes, and for that"—

Mr. SIDMONS (interrupting): Cannot we agree, instead of reading all this into the record, that you should be at liberty to read from the circular at any time?

Mr. DAVENPORT: That is all right; we will agree right here. It will be through here in a minute.

Mr. SIDMONS: I was only thinking that this is already in the record, itself.

Mr. DAVENPORT: It will be more convenient to have it all together in this testimony.

By Mr. DAVENPORT:

Q. (Continuing reading.) "—and for that reason its name is published upon the American Federation of Labor 'We Don't Patronize List.'"

"The Court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove and Range Company upon the 'We don't Patronize List.' Should we be enjoined by the court from doing so, the merits of the case will not be altered nor can any court decision take from any man the right to bestow his patronage where he pleases.

"Mr. Van Cleave, President of the Buck's Stove and Range Company, also president of the National Association of Manufacturers, is raising a war fund of one Million and a half dollars to crush

organized labor. You already know the attempts that have been made with a part of that money to assassinate the character of the active men in the labor movement to corrupt them and buy them over, much of which was exposed at a recent Norfolk convention of the American Federation of Labor and more of which will be published in a pamphlet about to be issued.

"Bear in mind that you have a right to decide how your money shall be expended.

"You may or may not buy the products of the Buck's Stove and Range Company.

"There is no law or edict of court that can compel you to buy a Buck's stove or range.

"You can not be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove and Range Company's products of its unfair attitude towards
491 its employes and ask them to give their sympathy and aid in influencing the Buck's Stove and Range Company to deal fairly with its employes and come to an honorable agreement with the union primarily at interest.

"It would be well for you as central bodies, local unions, and individual members of organized labor and sympathizers to call on business men in your respective localities, urge their sympathetic cooperation and ask them to write to the Buck's Stove and Range Company of St. Louis, urging it to make an honorable adjustment of its relation with organized labor.

"Act energetically and at once. Report the result of your effort to the undersigned.

SAM'L GOMPERS,

President American Federation of Labor.

Attest:

FRANK MORRISON, *Secretary.*

"By order of the Executive Council of the American Federation of Labor."

Do you recall that circular? A. The circular is familiar. I have no distinct recollection at the present time in regard to the circular, but it is possible that circular was issued.

Q. Is that the fullest answer that you can make? A. At this time. I would have to refresh my memory in regard to it by investigation.

Q. Investigation how, and where? A. Well, I would have to see the circular, if I could find one.

492 Q. Do you know where that circular was printed? A. I do not.

Q. You cannot tell in any way where it was printed? A. Oh, I could; yes, I suppose by looking it up.

Q. Who does the printing for the American Federation of Labor? A. Four or five firms in the city.

Q. What were they? A. The Tribune Company; The Law Reporter; The Trade Unionist; and two other firms whose names I do not recall at this time.

Q. Could you tell which of those printed that particular —? A. I had the circular I could tell. I would not be able to tell you just this moment—not tonight; but I could tomorrow.

Q. If you had it presented to you now, could you tell? A. I could tell tomorrow.

Q. Will you ascertain? A. I will, yes.

Q. Can you tell us how many of those were printed? A. What the question?

Q. How many of those circulars were printed? A. I can make an effort to find out.

Q. Can you tell without investigating? A. I will have to make an investigation and see if I can tell.

Q. Do you recall the fact that they were sent out by you to all the unions in the country? A. I do not recall the fact, now.

Q. Can you ascertain whether they were? A. I can.

Q. Will you? A. I will.

Mr. RALSTON: I think that that is all admitted, and all in the record in this case.

Mr. GOMPERS: I admitted it.

Mr. RALSTON: It is admitted in the record in this case.

Mr. DAVENPORT: The question is about this witness. He is here now testifying, and I want to know whether he says that he cannot recall whether they sent the circular out at all, or how many, or whether they were sent to local unions of American Federation of Labor. A. Well, after reading it, I have an indistinct recollection of reading the circular at the time; but if I could see the circular—

Q. (Interrupting.) And signing it as Secretary—"Attest: Frank Morrison, Secretary. By order of the Executive Council of the American Federation of Labor." A. Circulars are prepared for the printer and the printer does that. That is our usual form.

Q. I say, can you recall anything about that? A. No more than that I have an indistinct recollection of such a circular, but if I had the circular itself—

Q. (Interrupting.) Do you know who prepared that circular, or who composed it? A. If that circular went out, it would appear to me that it might be prepared by President Gompers; but at first it says it is "By order of the Executive Council," and it is just possible it might have been prepared by the Executive Council, so I want to get my information correct.

Q. Will you state whether or not that circular was not prepared and sent out pursuant to the action taken by the American Federation of Labor? A. That, I do not know. I do not prepare those circulars that are ordered by the convention.

Q. Who does prepare them? A. Well, President Gompers and the Executive Council, in accordance with the action of the convention.

Q. You are a member of the Executive Council? A. Yes sir.

Q. Do you remember being present at a meeting of the Council

when such a resolution as that was considered? A. I have no recollection now; no sir.

Q. None whatever? A. None whatever.

Q. Now, Mr. Morrison, do you keep the minutes of the proceedings of the Executive Council? A. I do.

Q. If such a matter as this was brought before the Executive Council for their action and approval, will your minutes show it? A. Yes; I think they would.

Q. Will you ascertain and give us the information? A. I will.

Q. Before your testimony is concluded? A. I will.

495 Q. I wish you would look at this circular which I hand you, and see whether you recall anything about that circular? A. Yes sir; I recollect that circular.

Q. Do you know by whom you had it printed, or by whom it was printed? A. Let me see that again. I am not sure who printed it. (Witness examines circular.) I am not sure. It was printed by one of our printers.

Q. Do you recall any of the circumstances? A. Just an appeal sent out for financial assistance.

Q. That paper speaks for itself. I will call your attention to its contents, particularly. That particular circular, do you recollect anything about sending it out? A. Nothing more than that it was sent out.

Q. I see it bears date January 24, 1908, Washington, D. C. Do you know whether it was sent out at that date, or afterwards? A. Well, it was sent out after that date.

Q. To whom was it sent? A. To the Secretaries of our affiliated unions.

Q. What do you mean by that—your International Union? A. Yes sir.

Q. And to anyone else? A. Not that I know of.

Q. Was it sent to the locals directly chartered by the Federation of Labor? A. Yes sir.

Q. About how many in all were sent? A. I don't know; 496 somewhere, I suppose, between about twenty-five thousand to twenty-eight thousand, or something like that.

Q. How were they distributed—such a large number? What was the method of distributing them? A. One to each secretary.

Q. Of the 27,000 locals? A. Yes sir. You see, it is a call for funds to try this case on.

MR. DAVENPORT: I offer this circular in evidence, being dated Washington, D. C., January 24, 1908, and headed, "An Urgent Appeal," and I will ask the examiner to incorporate it bodily into the record.

THE EXAMINER: Besides being filed physically?

MR. DAVENPORT: Yes.

MR. RALSTON: Please note an objection to the document, which the Examiner will mark "A. H. No. 2" as not being involved in this case, and not specified directly or indirectly in the petition in

the contempt proceedings, and therefore being irrelevant and immaterial to the issues now before the court.

The Circular thus offered in evidence was marked by the Examiner as "Exhibit A. II. No. 2" and a full, true and correct copy hereof is in words and figures as follows, to-wit:

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"AMERICAN FEDERATION OF LABOR.

American Federation of Labor.

Labor Omnia Vincit.

Org'd Nov. 15th, 1881.

Long Distance Telephone, Main 3871-2.
Cable Address, 'Afel.'

Executive Council.

President, Samuel Gompers.

Secretary, Frank Morrison.

Treasurer, John B. Lennon, Bloomington, Ill.

"First Vice-President, James Duncan, Hancock Building, Quincy, Mass.

Second Vice-President, John Mitchell, 1111 State Life Bldg., Indianapolis, Ind.

Third Vice-President, James O'Connell, 402-407 McGill Bldg., Washington, D. C.

Fourth Vice-President, Max Morris, P. O. Box 1581, Denver, Colo.

Fifth Vice-President, D. A. Hayes, 930 Witherspoon Bldg., Philadelphia, Pa.

Sixth Vice-President, Daniel J. Keefe, 407-408 Elks' Temple Bldg., Detroit, Mich.

Seventh Vice-President, Wm. D. Huber, State Life Building, Indianapolis, Ind.

Eighth Vice-President, Jos. F. Valentine, Commercial Tribune Bldg., Cincinnati, Ohio.

423-425 G St. N. W.,

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"WASHINGTON, D. C., January 24, 1908.

"An Urgent Appeal for Financial Aid in Defense of Free Press and Free Speech.

To All Organized Labor, Greeting:

Justice Gould, of the Supreme Court of the District of Columbia, has issued an injunction against the American Federation of Labor and its officers, officially and individually.

"The injunction invades the liberty of the press, the liberty of speech. It enjoins the American Federation of Labor, or its officers from printing, writing, or orally communicating the fact that the Buck's Stove and Range Company has assumed an attitude of hostility toward labor, and that organized

labor has made this fact known, and asks its friends to use their influence and purchasing power with a view of bringing about an adjustment of all matters in controversy between that Company and organized labor. The injunction is of the most sweeping character, and it, as well as the suit in connection therewith must, of necessity, be contested in the courts, though it reach the highest judicial tribunal of our country.

"With this is a reprint of an editorial from the February, 1908, American Federationist, entitled "Free Speech, Free Press Invaded by Injunction Against A. F. of L.—A Review and Protest." The editorial contains a full presentation of labor's position in regard to this injunction.

499 "The Executive Council of the American Federation of Labor has retained the services of Hon. Alton B. Parker, former Chief Justice of the Court of Appeals of the State of New York and Messrs. Ralston and Siddons as counsel to defend the rights of labor and the more general rights of all our people involved in this injunction and suit; the rights, as we have said, of the freedom of press and the freedom of speech.

The Norfolk Convention of the American Federation of Labor authorized the levying of an assessment of one cent per member of affiliated organizations for this case and gave the Executive Council power to levy additional assessments, if necessary. One of these assessments has been levied, but it is found to be insufficient to meet the exigencies and needs of the case.

We believe that organized labor, its membership and its friends, would prefer to make voluntary contributions of financial aid rather than additional assessments be levied.

"Because of the necessity to defend the fundamental rights of free speech and free press of the working people to-day, and which may involve the freedom of the press and the freedom of all our people in the future, we appeal to all unions and union members, and the friends of justice to contribute as promptly and as generously as they can, in order that a legal defense fund may be at the disposal of the American Federation of Labor to defend the rights of labor, and the rights of our people before the courts.

"Send all contributions direct to Frank Morrison, 423-425 G Street Northwest, Washington, D. C., who will send receipt 500 for same.

"Fraternally yours,

SAM'L GOMPERS, *President.*

Attest:

[SEAL.] FRANK MORRISON, *Secretary.*
 JAMES DUNCAN, *First Vice-President.*
 JOHN MITCHELL, *Second Vice-President.*
 JAMES O'CONNELL, *Third Vice-President.*
 MAX MORRIS, *Fourth Vice-President.*
 D. A. HAYES, *Fifth Vice-President.*
 DANIEL J. KEEFE, *Sixth Vice-President.*
 WM. D. HUBER, *Seventh Vice-President.*
 JOS. F. VALENTIE, *Eighth Vice-President.*
 JOHN B. LENNON, *Treasurer.*
Executive Council American Federation of Labor."

Q. Now, I notice in this circular the following statement, "With this is a reprint of an editorial from the February, 1908, American Federationist, entitled 'Free Speech, Free Press invaded by injunction against A. F. of L.—A Review and Protest.' The editorial contains a full presentation of labor's position in regard to this injunction." By the way, did you attach your signature to that circular? A. It was printed there.

Q. By your authority? A. Yes sir.

501 Q. I show you now another document; I wish you would look at the document which I now hand you. A. Yes sir; I have looked at it.

Q. Do you recall that? A. I do.

Q. Is that the circular referred to in Exhibit No. A. II. 2 in the part I have read, which refers to a reprint? A. To the best of my recollection it is.

Mr. DAVENPORT: I will offer that in evidence, and ask that it be marked "Exhibit A. II. No. 3."

Mr. RALSTON: The same objection will be entered to the matter now offered, being exhibit "A. II. No. 3," it not being involved in the issues in this case, and not referred to in the petition in the contempt proceedings.

Said circular thus offered in evidence was marked by the examiner as "Exhibit A. II. No. 3," and is hereto appended.

Q. Was one of those sent with each of the circulars heretofore referred to as exhibit "A. II. No. 2"? A. Yes sir.

Q. To all the unions—all your affiliated unions? A. Yes sir.

Q. To the number of how many thousand?

Mr. RALSTON: Note a general objection to any question as to either of the circulars just submitted, as not being embraced in the issues in this case now pending.

(No answer.)

Q. From what place were these distributed? A. From Washington.

Q. From the headquarters of the American Federation of Labor? A. From headquarters.

Q. And sent out by you as secretary? A. They were sent out under my direction.

Q. I notice appended to the editorial quoted from the "American Federationist" or reprint from the "American Federationist of February, 1908 in this Exhibit A. II. No. 3, at the bottom, the following statement in large type:

"In the official organ of the National Association of Manufacturers, one of the counsel for the Buck's Stove and Range Company declares that punishment for the violation of the injunction issued by Justice Gould, against the American Federation of Labor, applies particularly to those within the territorial limits of the District of Columbia, who violate the terms of the injunction. That those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished

only when they thereafter come within the territorial limits of the District of Columbia. Counsel for the American Federation of Labor assure us that this construction of the court's order is accurate."

Did you know that that was appended to that document when you sent it out? A. I read it.

Q. And knew of it? A. And knew that it was appended.

Q. To that? A. I read the circular. I knew all about it.

503 Q. Before sending it out? A. Before sending it out.

Q. Did you send it to anyone else? A. Not that I know of.

Q. Can you state whether or not this circular, exhibit No. 2, with its accompanying exhibit No. 3, was sent in pursuance of the resolution taken by the American Federation of Labor in convention assembled, as is stated in it? A. The circular was to secure funds to defend the officers against the injunction proceedings.

Q. The question is whether or not this was sent in pursuance of the vote at the Norfolk Convention of the American Federation of Labor authorizing the assessment, whether this circular was sent out by you as secretary, in pursuance of the resolutions taken by the Norfolk Convention. A. It was sent out to secure additional funds.

Q. Do you understand my question? A. I do not know that I do, if my answer is not right.

Q. Do you know whether or not that was sent out, or can you state whether or not that was sent out in pursuance of the vote taken by the Norfolk Convention of the American Federation of Labor.

Mr. RALSTON: What vote taken?

A. What particular resolution have you in mind.

Q. Any resolution, or any vote taken and contained in the proceedings. A. The proceedings authorized the Executive Council to take action to raise funds for the defense of this suit, and that was issued to secure additional funds to carry on the suit.

504 Q. Was it taken in pursuance of that vote of the convention that you speak of now? A. It was taken to secure additional funds. That was sent out to secure additional funds. The Executive Council had authority to raise funds, and that is why it was issued.

Q. Can you then state whether or not it was pursuant to the action of the convention? A. It was the result of the action of the court. If there had been no case, there would have been no—

Q. (Interrupting.) Is that the best answer you can give to that question whether or not this circular prepared and signed by yourself and the Executive Council was in point of fact prepared and sent out in pursuance of authority conferred upon them by the American Federation of Labor, one of the defendants in this suit?

Mr. RALSTON: What authority?

Q. The authority of the Federation of Labor. I want to know that.

Mr. RALSTON: He has answered several times it was sent out to secure funds.

Mr. DAVENPORT: But that does not answer the question I ask him

Mr. RALSTON: He said he was authorized to procure funds.

Q. I will call your attention particularly, Mr. Morrison, to that part of the report of the proceedings of the American Federation of Labor at the Norfolk Convention of 1907, appearing on pages 213 and 214. A. Well, I have read it.

Q. Was this circular, "Exhibit A. H. No. 2" prepared and
505 sent out pursuant to the vote of the convention found on those pages of the report, that report being exhibit "A. H. No. 1"? A. That was issued to secure additional funds.

Q. That you have stated three or four times. I suppose it speaks for itself as to what it was done for. I want to know whether or not that circular was issued by you pursuant to that report and resolution. A. The authority was given us by the committee for the President and Executive Council to raise additional funds, if needed.

Q. I call your attention specifically to this report of the committee, and I will ask the examiner to include that report verbatim, together with the action thereon of the convention, in the transcript of the testimony at this point, the witness having the proceedings before him, and it appearing on pages 213 and 214. The motion was seconded and carried by unanimous vote of the convention, and I want that shown too. It is as follows:

"Delegate DUFFY (FRANK), for the Special Committee appointed to consider the question of the Buck Stove and Range Company, announced that a report from that Committee was ready.

"Delegate WILSON (JAMES): I move that that report be made a special order of business for 2:30 o'clock this afternoon.

"After a short discussion, the motion was withdrawn, and Delegate Ramsay, for the Special Committee read the following:

"To the Officers and Delegates of the Twenty-Seventh Annual Convention of the American Federation of Labor:

506 "Your Special Committee, to which was referred the subject matter contained in the reports of President Gompers and of the Executive Council relative to the suit brought by J. W. Van Cleave, of the Buck Stove and Range Company, against the American Federation of Labor and its officers, and all matters in connection therewith, begs leave to report as follows:

"We have given the reports, the evidence and all other matters in connection with the suit, our deliberate consideration. There is not the least doubt in our minds but that the suit in question, the scurrilous and scandalous campaign of villification against the officers of our great movement, the rampant antagonism of the worst elements of the capitalist class as manifested in Los Angeles and elsewhere, are all of them of a kind, leading up to and the result of the creation of the million and a half dollar War Fund by the Manufacturers' National Association—raised in the effort to weaken and ultimately destroy the effectiveness of our great movement, our movement which protects and advances the interests of the toiling masses of our country against the greed and aggression of those who seek to profit if the toilers were rendered defenseless.

"We have read with the deepest interest the fundamental princi-

ples involved in the Van Cleave suit as set forth in President Gompers' report, both under the caption dealing specifically with the suit and also in that part of the report dealing with the 'injunction abuse.' We venture to assert that in no document of a similar kind or in any treatise upon the subject have constitutional guarantees and inherent principles been set forth more clearly, logically and truly than
507 in the President's report.

"There is involved in the Van Cleave Buck Stove and Range Company suit against the A. F. of L. and its officers fundamental rights which strike at the very root of free institutions. The freedom of speech and the freedom of the press are involved; and, as President Gompers so ably and amply sets forth, there are involved the right of man's ownership of himself, his ownership of his labor power, of the wages he receives in return for the exchange of his labor power, and the use to which these wages may be devoted.

"Freedom was never taken from a people by one attack. The process was and is gradual. It is the denial of the rights of one portion of the people at one time, the infringement upon the liberties of another portion at another time, that step by step make inroads into the citadel of freedom and undermine the entire structure.

"So with the injunctive process as typified in the present suit. The attempt to deny to the men of labor the right of the freedom of speech and of the press should not only arouse the resentment of the great masses of our people, but it should appeal strongly to the newspapers and magazines of our time.

"The freedom of the press implies not merely that one shall print and say the things that please. For such a purpose guarantees are entirely superfluous. The constitutional guarantees of the freedom of the press were designed to protect the dissidents, the opponents, in their right not only to protest but to make public that protest in speech and print, in an appeal to the people against existing
508 power and conditions. In it are involved the guarantee of the right to say the things that displease, man being responsible for his utterances and never to be enjoined or prohibited from expressing himself.

"The blow in this instance against labor and its official magazine, the American Federationist, may tomorrow in some form be directed against another publication, and though labor may be called upon to bear the brunt and make the contest in the present proceedings, we urge upon the press of our country the consideration of the principle of free speech and free press involved in these proceedings.

"If the rights and the interests of the people are to be protected and defended against modern greed, avarice, chicanery and unlawful power, we can not, and we will not, surrender or yield the exercise of the liberty of speech, the liberty of the press.

"We protest against and repudiate the theory, either expressed or implied, that there exists any direct or indirect property right in workmen other than by the workmen themselves, and in defense of our position upon these great fundamental principles made sacred by history and traditions, we pledge our united efforts.

"We commend the action thus far taken by the President and

the Executive Council, in taking the necessary legal steps to maintain our Constitutional rights. Your committee believes it is of vital importance that this suit be fought to a successful termination, and therefore, to raise an available fund for that purpose we recommend that this convention authorize the President and the Executive Council to issue a special assessment of one cent per capita, and that the President and the Executive Council afore-said be further authorized to make such other and further assessments, should occasion require, as they in their judgment may deem necessary.

FRANK DUFFY, *Chairman.*

D. G. RAMSAY, *Secretary.*

JOHN P. FREY.

S. L. SANDERS.

JOHN T. SMITH.

JOHN A. MOFFITT.

EMMETT T. FLOOD.

J. G. NOYES.

GEORGE FINGER.

W. D. MAHON.

JERE L SULLIVAN.

JOHN FITZPATRICK.

"Delegate RAMSAY: I move the adoption of the report.

"The motion was seconded and carried by unanimous vote of the convention."

Now, I will ask you whether or not that circular, Exhibit No. 2 was prepared and signed and sent out by you in pursuance of and by authority of the action taken by the Convention itself. A. I said the convention authorized the Executive Council and the President to secure further funds if they were needed, and they needed further funds, and issued that circular.

510 Q. In pursuance of the authority of the convention? A.

In pursuance of the authority given to them——

Q. (Interrupting.) By the convention? That answers the question. Have you there a copy of the American Federationist for the month of September, 1908? A. Yes sir (handing counsel a paper).

Q. How many copies of that number of the American Federationist were printed? A. I do not know.

Q. Can you state approximately? A. I would not care to just now; I can find out.

Q. Will you find out? A. I will try to.

Q. Can you state when the printed copies were received here at this office? A. No, I do not know.

Q. Can you find out? A. I think I can.

Q. Will you do so? A. I will try to.

Q. And give us the information before your testimony is concluded? A. Yes, I will try to get the information for you.

Q. Is this, (indicating), a copy of the September, 1908, number of the American Federationist? A. Yes sir.

Mr. RALSTON: I desire to note an objection at this time to any examination whatever with regard to the contents of the September Federationist, as not being involved in these contempt proceedings, there being no reference made thereto in the petition, and of course none in the answer.

Mr. DAVENPORT: Does that make any difference?

Mr. RALSTON: I think it does. We are trying this matter on a certain particular offense, and you are bringing in extraneous matters.

Mr. DAVENPORT: Oh, every instance and every act that shows the animus of these parties is perfectly legitimate, under all the authorities.

Mr. RALSTON: They are being tried for facts, not supposed animus.

Mr. DAVENPORT: To determine whether or not the acts done by them were in contempt of court, other acts and circumstances can be shown.

Mr. RALSTON: The acts of contempt are very simple, and none so far has been proven this evening.

Mr. DAVENPORT: So you say, but all this, of course, we will leave to the argument before the court. Do not decide your case before you are through with it.

Mr. RALSTON: I would like to get down to the facts.

Mr. DAVENPORT: I offer in evidence this copy of the issue of the American Federationist for September, 1908.

Mr. RALSTON: I object to the matter offered, for the reasons set out before, it not being pertinent to the issues in these contempt proceedings.

(The examiner marked as "Exhibit A. H. No. 4, the copy of the American Federationist thus offered in evidence, and said exhibit is hereto appended.)

Q. Did you distribute any copies of this exhibit "A. H. 512 No. 4?"

Mr. SIDDONS: Let it be understood that our objection——

Mr. RALSTON (interrupting): I have already noted a general objection.

Mr. SIDDONS: Very well, then.

A. I have not distributed any of those. As I stated before, I do not handle the Federationist.

Q. Do you know whether or not they were distributed? A. I know copies are sent out to our——

Q. (Interrupting.) To whom were they sent? A. To our secretaries of our unions, and to the subscribers.

Q. In number, about how many? A. I do not know.

Q. Can you give us any approximate idea? A. I do not care to. I will try to find out for you.

Q. Will you find out, and give us the information? A. I will try, and will if I can.

Q. I want to direct particular attention at this time, and in this place, to what is found on pages 674, 678, 680, 682, 684, 686, 688,

690 and 692 of this September number of the American Federationist, being marked "Exhibit A. H. No. 4." A. What is it? Advertisements?

Q. It is entitled "Petition of Buck's Stove and Range Co." A. That is your own petition, is it?

Q. It is entitled, "Petition of Buck's Stove and Range Co. 513 To the Supreme Court of the District of Columbia for an order against Samuel Gompers, Frank Morrison and John Mitchell to show cause why they should not be punished for contempt of the court's injunction of December 18, 1907." A. I read the original of that—I mean I read the order that I received.

Mr. RALSTON: The petition you received, you mean?

A. Yes, the petition I received.

By Mr. DAVENPORT:

Q. Now, I want to call attention also to these words on page 720 of this Exhibit "A. H. No. 4." "I notice that President Gompers, Secretary Morrison and Vice-President John Mitchell have been haled to court charged with violating the celebrated injunction order of Judge Gould. Money makes the mare go, and Mr. Van Cleave's money is making this contempt case go, but we have had Van Cleave's before, and will have them in the future, and labor will rise in its might and crush Mr. Van Cleave and all his money that may work now or in the future for the purpose of restricting labor in its fundamental rights of free speech and free press." And I will call your attention to these lines on page 725 of Exhibit A. H. No. 4. "We have also witnessed in the past year most serious judicial invasion and usurpation of individual liberty and human freedom by the abuse of the writ of injunction. An attempt has been made by the abuse of the writ of injunction to deny and prohibit the freedom of speech and the freedom of the press, and men have been cited to show cause why they should not be punished purely for the exercise of the right of free press and free speech, rights not only 514 natural and inherent in themselves, but guaranteed by the constitution of our country, and which our forefathers fought to establish, and which a free people never dreamed would be ever placed in jeopardy."

I will mark in blue pencil the portions which I have just quoted.

Mr. RALSTON: I dislike to say anything to interrupt the course of this very interesting examination, but it is now ten-thirty-five o'clock, and don't you think an adjournment would be in order at this time?

Mr. DAVENPORT: I am perfectly willing to adjourn; yes sir.

Thereupon, at 10:35 o'clock p. m., an adjournment was taken until eight o'clock p. m., Saturday, September 12, 1908.

ALBERT HARPER, *Examiner*.

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WASHINGTON, D. C.,

September 12, 1908—Saturday, 8 o'clock p. m.

Met pursuant to adjournment.

Appearances.—Daniel Davenport, Esq., of Solicitors for petitioners; also Jackson H. Ralston, Esq., of Solicitors for respondents, of whom

Messrs. Samuel Gompers, John Mitchell and Frank Morrison were present; and also the Examiner.

Whereupon the witness, FRANK MORRISON, further deposes and says:

By Mr. DAVENPORT:

Mr. RALSTON: I desire to state at this time that we are ready to make any admissions of actual fact on the record and Mr. Morrison is ready to make any admissions so far as they may lie within his knowledge which are pertinent to any of the issues in this reference and we in that way stand ready to shorten this examination just as much as it can possibly be shortened; that the examination last evening was in our opinion to the extent of at least two-thirds unimportant from a legal point of view; that the details of the management and control and operation from a business standpoint of the Federation and of the Federationist have nothing whatever to do with this examination which is purely to discover whether or not the three respondents have or have not since the 23rd day of December, 1907, committed a contempt of the authority of the Supreme Court of the District of Columbia; that therefore any questions relating to the points indicated will be objected to and the witness will be instructed not to answer them unless he sees fit.

Mr. DAVENPORT: Are you ready now to proceed?

Mr. RALSTON: Yes, sir.

By Mr. DAVENPORT:

Q. Last evening you were requested to furnish certain information and promised to do so if you could. Have you obtained that information?

Mr. RALSTON: I suggest that Mr. Davenport state what information he refers to. The question is too general.

Mr. DAVENPORT: If the witness does not understand it he will state so. The interruption of counsel is impertinent and improper and I hope will not be repeated.

Mr. RALSTON: The counsel will put the interruption in the form of an objection to the question as being indefinite and impossible of an answer. Will the stenographer repeat the question.

The STENOGRAPHER (reading): "Last evening you were requested to furnish certain information and promised to do so if you could. Have you obtained that information?" A. I have secured some information.

Mr. RALSTON: I wish to add that if the information desired, not made clear by Mr. Davenport's question, relates to the business management in any degree of the Federationist or the American Federation, the witness is instructed that he need not answer unless he sees fit.

517 Q. Have you the information as to the date of the reception of the printed copies of the Federationist of January 1908? A. No, I have not. I could not get a definite time for that.

Q. Mr. Morrison, were you here at the headquarters of the Ameri-

an Federation of Labor on the 17th of December, 1907? A. On the 17th of December? I do not know.

Q. That was the date when Judge Gould announced his opinion in the case. A. I have been absent some from the office but I keep no record of that absence.

Q. Can you not recall whether or not you were present or here? A. I cannot.

Q. Were you in Washington? A. I do not know, but the chances are that I was.

Q. The chances are—do you mean by that you were probably here? A. I mean the probability is I was here.

Q. Have you no recollection about it? A. I have not; it is not definitely fixed in my mind.

Q. Do you recall receiving information from your counsel that the opinion had been delivered and as to what it was, on the date it was delivered? A. I recollect of wanting to get the opinion and it seems to me that some time elapsed before I got it. That is

the only recollection I have in regard to it.

Q. Please repeat the question to the witness.

(The stenographer read the last preceding question.)

A. I have no definite recollection.

Q. Have you an impression that you did? A. I know that day sometime I received the information that an opinion was rendered.

Q. Is that the best information that you can give in your answer?

A. That is the best information. I have no definite recollection of those things.

Q. Do you recall whether you were here on the 18th of December, the date when the order was filed as appears by the record here? A. I would not swear that I was, and I have no recollection of being absent.

Q. Did it not make an impression upon your mind to enable you to state whether you were here in Washington or whether you were here at these Headquarters on that day?

Mr. RALSTON: I object to Mr. Davenport cross examining his own witness.

A. I did not fix any date in regard to it in my mind. It was just the fact that there was an injunction applied for or a restraining order applied for and that it was issued. I have no dates fixed in my mind whatsoever.

Q. The question is whether you recall, not so much perhaps the day of the month as the day when the injunction order was filed. A. That is not in my mind.

Q. That is a blank to you? A. That is a blank to me. I know that it was, and that is all.

Q. Do you know whether Mr. Gompers was in Washington at that time? A. I do not.

Q. Do you not know that he was not? A. I do not know whether he was or was not.

Q. Does it not come to your mind that at that time he was in the

City of New York attending a meeting of the Civic Federation? A. I have no recollection when the Civic Federation was held.

Q. I asked whether or not you do not recollect that at the time the opinion was filed and the injunction order was filed, Mr. Gompers was absent from the city of Washington and was in the city of New York? A. No, sir; I have no recollection of it.

Q. Was he not attending a meeting of the Civic Federation? A. I know that he attended the meeting of the Federation.

Q. About that time? A. I do not know the time. I do not know whether it was in December or January.

Q. Do you recall seeing Mr. Gompers on the morning of December 21, 1907 on his return from New York? A. I have no
520 recollection of seeing him any special morning.

Q. You have no recollection at all upon that subject? A. No, sir.

Q. Did you notice at the time when the decision of Judge Gould was announced that it was published in the newspapers? A. You mean his restraining order?

Q. The fact that he had decided the case in favor of the Buck's Stove & Range Company to the extent of granting a temporary injunction? A. I read about it. I have no recollection, however. I read in the paper about the injunction. That is, I glanced at the headlines.

Q. Have you any recollection of the date? A. I have no recollection as to the date.

Q. You have no recollection at all about that, have you? A. No, sir.

Q. Do you recall the fact of any conferences between yourself and your counsel in reference to that matter, immediately after the announcement of the opinion? A. We have had a number of conferences in regard to it, but just when I have no recollection.

Q. I asked the specific question as to the date and the period. A. I haven't any recollection.

Q. You have no recollection in regard to it? A. Not as to the date. I know we had conferences.

521 Q. In connection with the granting of the injunction about that time? A. I know we had conferences, but as to whether it was the day after or day before or several days after, I cannot state.

Q. Do you recall any communication received by you from Mr. Gompers while he was in New York with reference to the subject of that injunction? A. I have no recollection of receiving any communication from President Gompers in regard to the subject.

Q. Do you read the New York papers? A. Sometimes.

Q. Usually? A. Casually, yes.

Q. Do you recall reading any statement made by Mr. Gompers at that time in the New York papers of a report on a statement made by Mr. Gompers? A. No, sir.

Q. You know Andrew Furuseth, do you not? A. I do.

Q. Were you here at the Headquarters on the 21st day of December 1907? A. Let me see—Christmas was what day?

Q. The 25th, usually. A. I wanted to have it sure. I have no special recollection, but I believe I was.

522 Q. Did you see a large quantity of the American Federationists for January on that day? A. I have no recollection of seeing any.

Q. Do you recollect any connection between Mr. Furuseth and the sending out of those through the mails? A. I do not.

Q. Is your mind a perfect blank as to the incidents connected with the distribution of that large edition of the American Federationist for January or of the January number 1908?

Mr. RALSTON: I submit the question is improperly framed entirely. It does not call for any particular information.

A. I have no recollection in regard to the distribution of the Federationist at all.

Q. Do you remember a consultation with Mr. Gompers and Mr. Ralston on Saturday December 21, 1907 with reference to the putting out of that number of the Federationist? A. I have no recollection of such a conference.

Q. Of any kind whatever. A. I recollect of having a conference in regard to the restraining order after it was issued. I do not recollect in regard to any dates. I recollect we had a conference in regard to the injunction.

Q. And as to the effect upon you of sending out that number of the Federationist when the Judge had signed the order, after he had signed it, and before the undertaking was made as required by the terms of that order? A. I might be able to answer that question if I could have a consultation with the attorneys.

523 Q. Why do you need that? A. They might be able to refresh my mind.

Q. Can you not do it independently of such refreshment? A. I was at that time very busy getting ready to go home and just about that time had my daughter come over from school, and most of the work in regard to the injunction was carried on, whatever it may have been, by President Gompers.

Q. But President Gompers did not arrive here, I think until the morning of the 21st of December. Now in the interim do you recall anything about it? A. I cannot recollect anything.

Q. Let me see if I cannot get it out by refreshing your memory in another way.

Mr. RALSTON: The examination has been protracted to a considerable degree and I desire to interpose an objection that the conferences, if there were any, which personally I do not recall, between—

Mr. DAVENPORT (interrupting): You are not a witness here.

Mr. RALSTON: As good a witness as you are to Mr. Gompers arriving on the 21st. Conferences if there were any, were conferences which can take place between an attorney and his client and which are absolutely confidential and with regard to which it is grossly

improper to make any inquiries, and I notify the witness he can answer the question or not as he sees fit.

524 Mr. DAVENPORT: It is not for counsel to object or interpose the matter of the privilege of professional secrecy. It is for the witness, and it is highly improper for the counsel to suggest to the witness any such thing as that.

Mr. RALSTON: Neither is it customary nor commonly regarded as proper for one attorney to question a client as to conferences with his own attorney. It goes beyond the bounds of professional propriety.

Mr. DAVENPORT: When the question is whether or not an offense against the law has been committed, the provision for professional secrecy does not apply.

Mr. RALSTON: The provision of professional decency about such matters always applies.

Mr. DAVENPORT: That is true. Let us all practice and observe decency.

Mr. RALSTON: I trust you will.

The WITNESS: So as to avoid any unpleasantness I will object to answering the question.

Q. Upon what ground? A. By the instruction or by the advice of counsel.

Q. On what ground? Is it that it is information on that subject that is privileged? A. I said I objected to answering the question.

Q. On the ground that it is privileged? Are you privileged as to answering those questions? Is that the ground on which you put it, that you are privileged from answering because it was a matter of consultation with your attorney? A. I have no recollection of a conference but if there was such a conference I object to answering it on that ground.

525 Q. Do you recall Sunday the 22nd of December, 1907?

A. Not specially.

Q. Do you recall where you were on that day? A. I think I was in Washington.

Q. Were you in conference with Mr. Gompers that day? A. I have no recollection of a conference with Mr. Gompers that day.

Q. Are you able to state what was the usual day on which the American Federationist would have appeared? A. I did not handle the Federationist.

Q. Do you recall that? A. The usual day is—well, there is no usual day so far as I know. That is at the convenience very often of President Gompers and the conditions of whether it is a holiday or not.

Q. Do you recall whether or not any communication was had from you through this office to the printer or the printing establishment in regard to hurrying up the—

Mr. RALSTON (Interrupting): That is objected to as not material to the issues in this case.

A. I have no recollection.

Q. None whatever? A. None whatever.

Q. You have no knowledge whatever of any request or demand by the printer or the printing establishment to hurry to completion the edition so that it could be delivered here earlier than it would ordinarily have been?

Mr. RALSTON: I object to that because it has already been answered.

A. I have no recollection.

Q. Mr. Morrison, can you tell us anything about the bound volumes of the American Federationist for the year 1907 which were advertised for distribution in the January number 1908 of the American Federationist? A. Do you mean by that—well, what do you mean by that? We have such volumes.

Q. Can you give us any information as to whether any of them have been disposed of in pursuance of that advertisement? A. I could not.

Q. Not any? A. Not any.

Q. Not a single one? A. Not a single one.

Q. From the first of January down to July 1908? A. Not a single one of the bound volumes you mean?

Q. Of the bound volumes? A. I have no recollection of anything in regard to that.

Q. Have you any facilities for giving us that information? A. Yes.

Q. You were asked to furnish it in the subpoena. A. Which—that information?

Q. Yes. A. Well, I have no personal knowledge of the disposal of any. There may have been.

Q. Do you not know there has been? A. I do not.

Q. Have you looked to see? A. I did not secure the information in regard to that question, no.

Q. You knew there was an allegation of that kind in the petition here, did you not? A. Well, there is an allegation in the petition of about everything that affects the Federation.

Q. But in regard to those bound volumes and in regard to that allegation you answered in your return to the rule under oath? A. Yes.

Q. Have you looked to see? Did you look then to see whether or not any had been disposed of? A. I have not.

Q. Have you the facilities for ascertaining that? A. I think I could but I am not sure.

Q. Will you do so? A. I will.

Q. As late as the month of July, 1908. A. July 1908?

Q. Down to that period. A. All right.

Mr. RALSTON: I object to the furnishing of that information unless it appears that one of the respondents had something to with the furnishing of those bound copies, as otherwise it would not be pertinent to the issues in this case.

Q. Do you know anything about the number that you had on hand at the end of the year 1907 of those bound volumes? A. No, sir.

Q. Do you know anything about that? A. I know there were bound copies.

Q. You do not know the number? A. Not the number.

Q. Do you know where they were kept? A. Yes, sir.

Q. Who has charge of that portion of the work of the Federation, as you call it? A. Well, the Federationist is in charge of Mrs. Valesh.

Q. What is her given name? A. Eva McDonald.

Q. Does she reside here in Washington? A. She does.

Q. Do you know the number of her residence? A. I do not.

Q. Is she an employé of the Federation? A. An employé.

Q. And can usually be found here? A. Yes, sir.

Q. Does she have charge of the putting out of those things and the sale of them to applicants and furnishing them to applicants? A. Those copies are theoretically in the possession of the Secretary.

Q. That is yourself? A. Yes, sir. If the money comes in for them or an order is issued to send them out, they go out through the supply department.

Q. Well, it is a part of your duty is it not, as Secretary to receive all the moneys? A. Yes, sir.

Q. Do you keep account? A. Yes, sir.

Q. Will not your accounts show the receipts, for such sales? A. They should.

Q. Well, do they? A. If there were any sold they would, yes.

Q. And in that way you can ascertain directly yourself? A. Yes, sir.

Q. Will you look? A. I will try to secure the information.

Q. And furnish it here before your testimony is completed? A. Yes, sir.

Q. Now, Mr. Morrison, I asked you last evening in regard to events following a meeting in the office of Mr. Darlington on the 1st of November when you and Mr. Gompers were summoned to give testimony in regard to the case. Have you refreshed your recollection at all as to the incidents that followed that meeting? A. I have not.

Q. Do you recall when you left town to go to Norfolk, as to the date? A. No, I do not. I know it was shortly before. I do not recollect whether I got there on the 9th or the 10th.

Q. Previous to going did you have a conference with your attorneys with reference to the change in your answer which had previously been filed in the case?

Mr. RALSTON: That is objected to as not pertinent to the issues in this reference. For the sake of shortening this examination, if such a thing can be, I instruct the witness he need not answer. A. I will follow the advice of the attorney.

Q. Why do you refuse to answer the question? Is it on the ground that it involves a consultation with your attorney which is privileged as between attorney and client? Is that the ground for your refusal to answer? A. Yes.

Q. While in Norfolk on the 13th of November, 1907, did you go with Mr. Gompers before a Notary Public and make oath to an amended answer which had been forwarded to you?

Mr. RALSTON: That is objected to as immaterial and because it has no reference whatever to the issues pending in this reference, and the witness need not answer.

A. I decline to answer on instruction from counsel.

531 Q. The attorney does not instruct you. He cannot instruct you. A. Well, we are paying him and I am following his advice.

Mr. DAVENPORT: I will request the Examiner to direct the witness to answer that question.

Mr. RALSTON: The Examiner has no power to direct the witness.

The EXAMINER: I can only report it to the Court, Mr. Davenport.

Mr. DAVENPORT: I understand that, but I request you to direct him to answer. I show you Mr. Morrison a copy of the amended answer filed in this case on November 18th, 1907, to which is appended a certificate by a Notary Public that you there appeared and made oath to it and I ask you whether or not you made such an affidavit.

Mr. RALSTON: I give the witness the same instruction.

A. I decline to answer.

Q. On what ground—that you are instructed by your counsel or on what ground? A. Following the instructions of counsel.

Q. What is the ground of the objection Mr. Ralston?

Mr. RALSTON: The ground of the objection is that it is absolutely immaterial to the issues in this reference; that it is a consumption of time not called for as has been the case with two-thirds of the questions asked and that there seems to be no end to this sort of examination.

532 By Mr. DAVENPORT:

Q. Now I ask you to answer the question. A. I decline.

Mr. DAVENPORT: Mr. Examiner have you the original files in the case here?

The EXAMINER: I have them all here, yes, sir.

Mr. DAVENPORT: Unless there is some objection however to asking the question from this book, being the transcript of the record as printed, I will call your attention to what I desire in this transcript.

The EXAMINER: I want the record to show that Mr. Davenport asked me to direct the witness to answer and that I replied that I could not. Does the record so show, Mr. Stenographer.

The STENOGRAPHER: The record shows that, yes, sir.

By Mr. DAVENPORT:

Q. I will call your attention to this portion of the amended answer filed on November 18th, 1907. I will first read to you the whole of

it, and will then call your attention in order that you may have the context, to the portion that I specifically desire to interrogate you about. It reads as follows:

"Further answering said paragraph, these defendants say that they admit the publication and distribution of a monthly journal known as the 'American Federationist,' substantially as set forth therein, but, in further answer, they say that said Federationist is published for the use and benefit of the constituent members of the American Federation of Labor. They admit the publication therein of what is wrongfully termed in the complaint a list of persons who are called unfair, but which is simply under the heading of 'We don't Patronize.' They deny that the purpose thereof is to use 'the whole power of its (American Federation of Labor) vast organization and combination' 'to injure and destroy their (those not patronized) business thereby.' They deny that said 'We don't Patronize' list prohibits or interferes with any constituent organization or its members 'dealing with any person who purchases, uses or handles said product.' They admit that in successive monthly publications of the American Federationist are published an official list of individuals and concerns whom 'We don't Patronize' but they deny that this is a list of those who 'in previous issues have been declared unfair' by the American Federation of Labor, nor 'which are to be boycotted' by the American Federation of Labor, and, if material, pray strict proof thereof; and in connection with this admission and denial, they deny that the, or any such notice as that described in said paragraph four, or any notice containing the word 'unfair' appears in each and every issue of the American Federationist, or of any publication owned by the American Federation of Labor or its Executive Council, and allege that such notice has only once appeared in connection with, or referring to, plaintiff, that is to say in the May, 1907, number thereof; and they further allege that in the May, 1907, number of the said Federationist appeared a special notice reading substantially as follows:

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Special Notice.

WASHINGTON, D. C., June 25, 1907.

'To all Affiliated Unions:

'At the request of the unions interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

Buck's Stove and Range Co., St. Louis, Mo.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

SAMUEL GOMPERS,
President American Federation of Labor.'

that said notice has not, nor has any notice or statement referring to plaintiff and containing the word 'unfair' or any word of the same or similar import, appeared in any subsequent number of the 'American Federationist' or in any publication owned or controlled

by the American Federation of Labor, or by said Executive Council; nor has it been, nor is it the intention of defendants that any such notice hereafter shall be printed or published with reference to the plaintiff."

Now I want to call your attention as I say specifically to this last portion of what I have read, "That said notice has not nor has any notice or statement referring to plaintiff and containing the word, "unfair" or any word of the same or similar import appeared in any subsequent number of the American Federationist, or in any
535 publication owned or controlled by the American Federation of Labor or by said Executive Council, nor has it been nor is it the intention of defendants that any such notice hereafter shall be printed or published with reference to the plaintiff."

Mr. RALSTON: I give the witness the same instruction.

Q. Will you allow me at any rate to ask my question before you give your instructions? Do you recall making oath to that statement, Mr. Morrison? A. I decline to answer.

Q. On what grounds? A. The same ground.

Q. What is that ground? A. I decline to answer by instruction of the attorneys.

Q. Your attorney has no power to instruct you. A. Well, I am following his advice.

Q. Because your attorney advised you not to answer that question, you decline to answer it? Is that correct? A. That is correct.

Q. When this answer was made——

Mr. RALSTON (interrupting): May I inquire the object of these questions?

Mr. DAVENPORT: Isn't it perfectly apparent what the object is?

Mr. RALSTON: No, I confess it is not.

Mr. DAVENPORT: This answer was put in for the purpose of persuading the Court to find and believe that it was no longer and no more the intention of these parties to publish anything of
536 that which they had been publishing before and which they have been publishing ever since.

Mr. RALSTON: It is already in the record, is it not?

Mr. DAVENPORT: This is a part of the record.

Mr. RALSTON: What is the use of asking the questions then?

Mr. DAVENPORT: Of course it is perfectly pertinent to direct the attention of the witness to a particular thing for the purpose of inquiring about it, and as preliminary to asking other questions I propose to ask. If your idea is you are going to stop the examination and prevent the examination or shorten it by any such preposterous course as this, you are greatly mistaken.

Mr. RALSTON: My only hope was to bring you down to earth.

Mr. DAVENPORT: I am not up in a flying machine yet. Now, Mr. Morrison, I will ask you whether or not you did not make oath to that and have it presented in court for the purpose of leading the Court to believe and to declare to the Court the intention of the

defendants, yourself included, not to publish or print anything of that character?

Mr. RALSTON: I shall not raise any objection to that question.

Mr. DAVENPORT: That is all right then, if we are graciously permitted to ask a plain and simple question such as that. Now, Mr. Morrison you are permitted by your counsel it seems to answer this question.

Mr. RALSTON: In other words, whether he attempted to
537 deceive the Court.

Mr. DAVENPORT: No, not whether he attempted to deceive the Court, but whether he did not put it in——

Mr. RALSTON (interrupting): For the purpose of deceiving the Court.

Mr. DAVENPORT: Not deceiving it in any way. That is not the point to the question at all.

Mr. RALSTON: Misleading the Court then.

Mr. DAVENPORT: Not misleading the Court.

Mr. RALSTON: Then I do not understand your question.

Mr. DAVENPORT: Of course you do not, and I must say I think you fail to comprehend altogether the course of investigations of this character.

Mr. RALSTON: Yes, you are too *obstruse* for ordinary minds.

Mr. DAVENPORT: Now will you proceed to answer the question? State the question, Mr. Stenographer.

(The stenographer read as follows:)

"Now, Mr. Morrison, I will ask you whether or not you did not make oath to that and have it presented to the Court for the purpose of leading the Court to believe and to declare to the Court the intention of the defendants, yourself included, not to publish or print anything of that character?"

A. Yes.

Q. Now, I will ask you whether or not when you made oath to that, it was or was not your intention not any more to print or publish statements of the character specified therein further with reference to the plaintiff and its business? A. Yes.

538 Q. Now, it is precisely those things that you, by the restraining order, were enjoined from publishing.

Mr. RALSTON: Is that a question or a statement of fact?

Mr. DAVENPORT: I will add, "is it not"?

The WITNESS: I do not understand your question.

Mr. DAVENPORT: Repeat the question, Mr. Stenographer.

The Stenographer read as follows:

"Now it is precisely those things that you by the restraining order were enjoined from publishing, is it not?"

A. We were enjoined from publishing the Buck's Stove & Range Company on the "We-don't-Patronize" list.

Q. Or any statement referring to plaintiff and containing the word "unfair" or any word of the same or similar import. It was precisely those things that you were enjoined from doing by the restraining

order, was it not? A. We were enjoined from publishing the Buck's Stove & Range Company in the "We-don't-Patronize" list.

Q. It was something more than that, was it not? A. We were enjoined from carrying on a boycott against him.

Q. You were enjoined from doing these things. Did you read the petition to have you adjudged in contempt? A. I have, yes.

Q. In it did you see a copy of the decree? A. I did.

539 Q. And of the restraining order—and you read it? A. I read it.

Q. Well, I have a copy of it here before me, and I will direct your attention to the language of it. After mentioning the names of the parties, yourself included, it says, "and each of their agents, servants, attorneys, confederates, and any and all persons acting in said aid of or in conjunction with them, or any of them be, and they hereby are, restrained and enjoined until the final decree in said cause from conspiring, agreeing or combining in any manner to restrain, obstruct or destroy the business of the complainants, or to prevent the complainant from carrying on the same without interference from them or any of them, and from interfering in any manner with the sale of the product of the complainant's factory or business by defendants, or by any other person, firm or corporation, and from declaring or threatening any boycott against the complainant or its business or the product of its factory, or against any person, firm or corporation engaged in handling or selling the said product, and from abetting, aiding, or assisting in any such boycott, and from printing, issuing, publishing, or distributing through the mails, or in any other manner any copy or copies of the American Federationist, or any other printed or written newspapers, magazine, circular, letter or other document or instrument whatsoever, which shall contain or in any manner refer to the name of the complainant, its business or its product in the 'We-don't-Patronize', or the 'unfair'

540 list of the defendants, or any of them, their agents, servants, attorneys, confederates, or other person or persons acting in aid of or in conjunction with them or which contains any reference to the complainant, its business or product in connection with the term 'unfair' or with the 'We-don't-Patronize' list, or with any other phrase, word or words of similar import, and from publishing or otherwise circulating, whether in writing or orally, any statement, or notice, of any kind or character whatsoever, calling attention to the complainant's customers or of dealers or tradesmen or the public to any boycott against the complainant, its business or its product, or that the same are, or were, or have been declared to be 'unfair', or that it should not be purchased or dealt in or handled by any dealer, tradesman, or other person whomsoever, or by the public, or any representation or statement or like effect or import, for the purpose of, or tending to, any injury to or interference with the complainant's business, or with the free and unrestricted sale of its product, or of coercing or inducing any dealer, person, firm or corporation, or the public, not to purchase, use, buy, trade in, deal in, or have in possession stoves, ranges, heating apparatus, or other product of the complainant, or from threatening or intimidating any

person or persons whomsoever from buying, selling, or otherwise dealing in the complainant's product, either directly, or through orders, directions or suggestions to committees, associations, officers, agents or others, for the performance of any such acts or threats as herein above specified, and from in any manner whatsoever impeding, obstructing, interfering with or restraining the complainant's business, trade or commerce, whether in the State of Missouri, 541 or in other states and territories of the United States or elsewhere wheresoever, and from soliciting, directing, aiding, assisting or abetting any person or persons, company or corporation to do or cause to be done any of the acts or things aforesaid."

Q. Those are the words of the decree. It is precisely the same thing in effect is it not as that which you swore was your intention when you put in that amended answer in the language which I have read to you from it?

Mr. RALSTON: Is that a question or an argument?

Mr. DAVENPORT: A question.

A. What you read to me is the decision of the Court.

Q. It is the decree. A. Yes.

Q. And the things stated in that decree are precisely the things which in your sworn answer you declared it was your intention to abstain from, is it not? A. The intention was that the Buck's Stove & Range Company should not be published in the "We-don't-Patronize" list.

Q. Well, or any statement referring to the plaintiff. Let me again direct your attention to what is in your amended answer. "That said notice has not, nor has any notice or statement referring to plaintiff and containing the word unfair, or any word of the same or the similar import, appeared in any subsequent number of the American Federationist or in any publication owned or controlled by the American Federation of Labor, or by said Executive Council; nor has it been, nor is it the intention of 542 defendants that any such notice hereafter shall be printed or published with reference to the plaintiff."

Mr. RALSTON: The question is objected to because it is not in evidence here that after that date there was any publication using the word unfair in the sense spoken of in the answer with reference to the complainant.

Mr. DAVENPORT: Now, I cannot object to your objection. You can interpose any objection you have a mind to but that only delays the game. What I want, having noted the objection, is an answer to the question. If the witness does not understand the question I will repeat it.

Mr. RALSTON: Oh, don't. Life is too short for you to repeat that question.

Mr. DAVENPORT: I do not know what to say to such interruptions. Will the stenographer please read the question to the witness.

The stenographer read as follows:

"Q. The things stated in that decree are precisely the things which in your sworn answer you declare it was your intention to abstain

from, is it not? A. The intention was that the Buck's Stove & Range Company should not be published in the 'We-don't-Patronize' list.

543 "Q. Well, or any statement referring to the plaintiff. Let me again direct your attention to what is in your amended answer: 'That said notice has not nor has any notice or statement referring to plaintiff and containing the word unfair or any word of the same or similar import appeared in any subsequent number of the American Federationist or in any publication owned or controlled by the American Federation of Labor or by said Executive Council, nor has it been nor is it the intention of defendants that any such notice hereafter shall be printed or published with reference to the plaintiff.' A. My answer is that it was the intention that the name of the Buck's Stove & Range Company should not be published in the American Federationist in the "We-don't-Patronize" list.

Q. That was your intention when you made oath to this? A. Yes.

Q. Now, in point of fact, the name of the Buck's Stove & Range Company did appear in the American Federationist for the month of December, did it not in the "We-don't-Patronize" list? A. I think it did.

Q. And in the January number 1908, it appeared? A. Yes, it appeared in the January number.

Q. Notwithstanding your sworn statement as to your intention in regard to that matter? A. It appeared in the January number.

MR. RALSTON: The argument of Mr. Davenport upon this point is objected to because as has already appeared from the testimony of the witness, Mr. Morrison has nothing to do with the contents of the Federationist.

544 Q. Notwithstanding this statement it has appeared in the report of the proceedings of the 27th Annual Convention of the American Federation of Labor held at Norfolk, Virginia, November 11-23 inclusive, 1907, such proceedings being marked Exhibit A. II. No. 1, has it not? A. I believe it did.

Q. This document of which you stated you had seven thousand printed? A. Yes, sir.

Q. And how many thousand distributed? A. I just took stock and I find that we have three thousand left and there have been four thousand distributed to our affiliated unions.

Q. Four thousand have been distributed? A. I should judge there were four thousand distributed. We have three thousand on hand.

Q. Were you a member of the Executive Council which made its report to the Norfolk Convention 1907 of the American Federation of Labor? A. Yes, sir.

Q. In this book it appears to be dated November 12, I think? A. 11th is it not? Oh, you mean the Executive Council's report?

Q. Yes. A. Yes.

545 Q. Now, Mr. Morrison, will you state in the first place whether or not you still adhere to the statement made in your return to the rule, that you have not in any way done any-

thing in this regard or in violation of the decree of the court in the premises?

Mr. RALSTON: In what regard.

Q. In disregard or in violation of the decree? A. That is my impression.

Q. Well, you have testified under oath here as appears in the minutes that you have in many instances and in many ways made publications and distributed them and caused them to be sent out, containing the very things which you are prohibited from doing by the express and explicit terms of the order and the decree and which you in your own sworn amended answer disavow any intention of doing.

Mr. RALSTON: This argument is objected to as being based upon assumption and not a question of fact.

Mr. DAVENPORT: Read the question and I will see if I can amend the argument.

(The stenographer read the last preceding question.)

Q. Have you not? A. I have not. The intention of my answer was that no effort should be made to continue the boycott against the Buck's Stove & Range Company.

Q. What is that? I did not catch the full purport of your answer to my question. A. The stenographer can read the answer.

(The stenographer read the last preceding answer.)

Q. Of your amended answer. A. By the publication of
546 the Buck's Stove & Range Company in the "We-don't-Patronize" list of the American Federation of Labor.

Q. But you have done so, have you not? A. Not as I understand it.

Q. Well, that is interesting. You admit in your return the publication for instance in the official report of the proceedings of the American Federation of Labor—

Mr. RALSTON (interrupting): Why not address your argument to the Court instead of the witness?

Q. (Continuing:)—that the name appears there in the "we-don't-Patronize" list or the unfair list. A. I admit that it appears in the proceedings of the Norfolk Convention.

Q. What is it you say that your amended answer was intended to be limited to? Let me again direct your attention to it: "Nor has any notice or statement referring to the plaintiff and containing the word unfair or any word of the same or similar import appeared in any subsequent number of the American Federationist or in any publication owned or controlled by the American Federation of Labor or by said Executive Council, nor has it been nor is it the intention of the defendants that any such notice hereafter shall be printed or published with reference to the plaintiff." Do you say that your answer was limited to the American Federationist? A. It was limited to the—

Mr. RALSTON (interrupting): For the sake of shortening this examination, if it can be, let me call attention of Mr. Davenport to the fact that the answer speaks specifically of the word "unfair" and that the testimony is that the American Feder-

ationist publication of December and January simply contained the reference to the Buck's Stove & Range Company in the "We-don't-Patronize" list, and that the word unfair was not thereafter used in the American Federationist, at least, in connection with the Buck's Stove & Range Company exactly as stated in the answer.

Mr. DAVENPORT: Does that shorten anything? It only complicates and confuses it more. The objection is explanatory of nothing.

Mr. RALSTON: I do not think I could add to the confusion you have started.

Mr. DAVENPORT: I think you have. Now let us see: In your return to the rule, Mr. Morrison you are specifically disclaiming any publication of any character which violates the terms of the injunction. You put in a comprehensive denial. Now this quibble which is suggested here by Mr. Ralston——

Mr. RALSTON: It is the exact fact, not a quibble.

Q. Well, it is the exact opposite of what Judge Gould finds in his opinion but I want to read to you again as I read last night to you, Mr. Morrison the "We-don't-Patronize" list from page 91 of the report of the proceedings of the American Federation of Labor for 1907, marked Exhibit A. H. No. 1, as follows:

"We-don't-Patronize list.

Application to endorse the placing of the following firms upon the unfair list of the American Federation of Labor has been made to and approved by the Executive Council from October 1, 1906, to October 1, 1907:

Buck's Stove & Range Company, St. Louis, Mo. (international Brotherhood of Foundry Employees.)"

Now with that statement in this exhibit before you, do you still say that you have not violated the terms of the restraining order which I read to you? A. I do.

Q. Will you give your reasons for that statement?

Mr. RALSTON: The question is objected to as not calling for a fact but for an argument from the witness. It is not necessary to reply to it.

Q. Do you want to offer any explanation of your answer when you say that notwithstanding the fact that in this exhibit A. H. No. 1 which you distributed, sending out four thousand copies, in which that statement is made, you have not violated the terms of the restraining order and decree? A. The proceedings are simply the record of the convention. It is not used in any way for carrying on a boycott on any establishment.

Q. Is it not a publication owned and controlled by the American Federation of Labor? A. It is the record of the proceedings of the yearly convention.

Q. And was it not printed and published by the American Federation of Labor? A. It was.

Q. And distributed by you? A. To the secretaries of its affiliated organizations as has been the custom for years, for their——

Q. (Interrupting.) For what? A. For their information in regard to the various reports.

Q. And information in regard to the things therein stated? Is it not printed and published also to be furnished to the public? A. If anyone were interested in the proceedings, they can secure a copy.

Q. Now let me direct your attention to certain other statements: In the October number of the American Federationist, page- 791, 792 occurs the following: 'The Buck's Stove and Range Company of St. Louis, of which Mr. Van Cleave is President, will continue to be regarded and treated as unfair until it comes to an honorable agreement with organized labor, and this too whether or not it appears on the "We-don't-Patronize" list.' "

You say that you still believe that by the circulation of the American Federationist containing that statement you have not violated that injunction.

Mr. RALSTON: The witness is instructed he need not answer that unless he wants to. He is not called upon to express an opinion whether he has or has not violated the injunction. It is not a fact in relation to which this reference is made.

The WITNESS: I am sorry, but I will have to follow the advice of counsel.

550 Q. What is the ground of your refusal? A. The same ground.

Q. What is that ground—because your counsel advises you? A. Because my counsel advises me it is not necessary to answer the question.

Q. Now, Mr. Morrison, referring to this editorial which has been marked Exhibit A. H. No. 3, which appeared in the American Federationist for February 1908, and which is admitted by the answer to have been published therein, this circular which has been marked Exhibit A. H. No. 3, entitled "Free Press, Free Speech invaded by injunction against the A. F. of L.," and so forth. Did you see that before it appeared in the Federationist? A. I have no recollection of seeing it.

Q. Well, I will ask you whether or not you had this printed? A. I did.

Q. You saw it before you had this printed? A. Yes, I read it in the Federationist.

Q. And before it was printed in the circular? A. Oh, yes.

Q. Was that submitted to the Executive Council for approval before it was published?

Mr. RALSTON: The question is objected to and the witness is informed he need not answer unless he sees fit. If you are engaged in a fishing expedition I am not going to help you.

551 Mr. DAVENPORT: Now, Mr. Ralston that is entirely an improper observation or suggestion.

Mr. RALSTON: Almost as improper as your questions.

Mr. DAVENPORT: It greatly delays the progress of things. I want to know whether or not that editorial before it appeared in the

Federationist was submitted to the Executive Council of the American Federation of Labor?

Mr. RALSTON: The witness is informed he need not answer the question unless he sees fit.

The WITNESS: I will follow the advice of counsel.

Q. Did you have a meeting of the Executive Council of the American Federation of Labor in January 1908?

Mr. RALSTON: Same instruction.

A. I will follow the advice of counsel.

Q. And decline to answer? A. And decline to answer.

Q. Because your counsel advises you that you need not answer?

A. Because counsel advises me I need not answer.

Q. Have you personally any objection to answering the question other than the fact that your counsel interposes a suggestion of that character? A. Well, I have personally, objection to answering all your questions.

Q. What is the objection? A. Because I do not believe that there is any occasion for this suit and the cost of time and energy on the part of the officers of the A. F. of L. I do not believe the injunction has been violated.

Q. Is that the reason you decline to answer these questions? A. You asked if I had objection to answering all questions and I gave my reasons.

Q. Is that the reason you object to answering this question? A. The question you asked I declined to answer because I was advised to do so by counsel.

Q. I asked whether you had any personal objection to answering that question. I will ask the stenographer to repeat that question.

The stenographer read as follows:

"Q. Did you have a meeting of the Executive Council of the American Federation of Labor in January 1908?" A. Since counsel has advised me that I need not answer the question, I have an objection to answering it.

Mr. DAVENPORT: Mr. Examiner, I ask you to certify this question to the Court. It is necessary for me in the examination that I have to make, to have an answer to that.

The EXAMINER: Do you want to proceed further and reserve that certificate or do you want it decided before you go any further?

Mr. DAVENPORT: I have to have that question answered before I go any further.

The EXAMINER: All I do of course is to carry the record up with my certificate to it.

Mr. RALSTON: I think I have noted on the face of the record that I considered that question entirely immaterial and objected to it for that reason.

Mr. DAVENPORT: It is no ground for refusal to answer the question that it is immaterial, in the opinion of either the witness or the counsel. He declines to answer it and I now ask that the question be certified to the court.

The EXAMINER: It will be so certified.

Mr. DAVENPORT: We will see whether we will have these questions answered or not. To what time shall we adjourn.

The EXAMINER: We cannot do anything now until Monday morning.

Mr. DAVENPORT: I suppose we can suspend operations until we have the ruling of the Court.

Mr. RALSTON: We tender you Mr. Gompers and Mr. Mitchell as witnesses now.

Mr. DAVENPORT: No, we stop here until we find out from the Court whether that question will be answered or not.

Mr. RALSTON: Mr. Gompers tells me he has no objection to the question being answered.

Mr. DAVENPORT: I do not care whether Mr. Gompers objects or not. This is intolerable, this absurd interruption of this examination, and I propose to see what the Court will say about it. If so manifestly a proper question as that is to be refused an answer by a recalcitrant witness under the suggestion as he claims and advice of his counsel, let us know it.

Mr. RALSTON: I think it is absolutely an improper question and my instruction to the witness was he could answer it or not as he sees fit.

Mr. DAVENPORT: And he said under the advice of counsel he refused to answer it and I have asked that it be certified up.

Mr. RALSTON: The advice of counsel is that he can answer it or not as he sees fit.

The WITNESS: Does the counsel withdraw his advice?

Mr. RALSTON: You can answer it or not just as you see fit.

The WITNESS: Let me hear the question read again.

(The stenographer read as follows:)

"Did you have a meeting of the Executive Council of the American Federation of Labor in January 1908?"

The EXAMINER: Does this certificate pertain to the last question or to all the questions that have not been answered?

Mr. DAVENPORT: The certificate as to this question of course, but as we are to certify the whole subject up, I ask that you certify all questions asked to which answer has been refused.

Mr. RALSTON: The witness has already answered the question.

Mr. DAVENPORT: No, it has not been answered.

The WITNESS: I do not recollect whether we did or not.

Mr. RALSTON: Now your question is answered.

By Mr. DAVENPORT:

555 Q. Can you ascertain? A. Yes, sir.

Q. Have you the minutes of the meeting? A. Yes, sir.

Q. Will you produce them now? I mean the minutes of the Executive Council in January, if you had one? A. I do not know whether we had a meeting.

Mr. RALSTON: I will say right here we will not produce the minutes. If you want that certified, you can have it.

Mr. DAVENPORT: I can have any question the witness refuses to answer certified; but, Mr. Ralston, you are not the Court nor the Examiner. You are permitted to be here for the purpose of objecting to questions, not to instruct or advise the witness, especially as to whether or not a question is material, and that he shall decline to answer it on that ground. Now, Mr. Morrison, will you refresh your recollection as to whether or not you had a meeting in January?

A. I do not recollect what month the meeting was in.

Q. Will you ascertain now? You have access to your minutes, I suppose. A. I can easily find out when we had a meeting. (Witness picks up a pamphlet.)

Q. What have you there? A. A copy of the Federationist. We had a meeting in January 1908.

Q. What date? A. From the 20th to the 25th inclusive.

Q. What members of the Executive Council were present?

556 A. The record shows that on the first day President Gompers, Vice President- Duncan, O'Connell, Morriss, Huber, Valentine, Lennon, Morrison, Hayes, and Keefe.

Mr. GOMPERS: That does not purport to give any names.

The WITNESS: As to the correctness of that of course I cannot touch, as it is not the minutes.

Q. What you have referred to is what appears on page 217 of the March 1908 number of the American Federationist. Have you any doubt of the correctness of that statement? A. Well, I did not read the minutes in the Federationist.

Q. Well, as to the fact that those gentlemen were present at that meeting? A. Well, I would not swear to it.

Q. Have you any other means of verifying it so that you are able to state whether those gentlemen were present in the meeting of the Executive Council? A. Yes, sir, I have.

Q. Will you now do it, because this is important. A. I will secure the information so that it can be given to you. That record is probably correct.

Q. Was this circular Exhibit A. H. No. 2 submitted to the Executive Council at that time?

Mr. RALSTON: There is a general objection noted to this because the circular is not embraced in and does not form a part of the charges herein.

A. I have no recollection.

Q. Have you the minutes of that meeting which you made 557 as Secretary? A. I have.

Q. Will you produce them and see? A. I will secure that information, whether that was submitted, and give it to you.

Q. Well, I want to know now preliminary to other questions I am going to ask. A. Well, to the best of my recollection it was not. It was simply an appeal for funds.

Q. It bears the names of all the Executive Council, signed by

Samuel Gompers, President, Frank Morrison, Secretary and the eight Vice Presidents and Mr. Lennon as Treasurer. A. Well, the circular was authorized by the Council.

Q. The circular speaks of being accomplished by this other circular containing the editorial of Mr. Gompers from the American Federationist of February 1908. A. Well, that simply went out explaining the case, that we desired the money. It went out to explain why we wanted the money.

Q. The question is whether or not that editorial and this circular were submitted to the Council for their approval before being sent out? A. I do not believe they were.

Q. You have no information on the question. A. I am satisfied they were not submitted to the Executive Council.

Q. By what authority was it issued then if not submitted to them?

A. The Council authorized an appeal for funds to be issued, 558 and when we issue an appeal for funds to unions they require a statement showing why we need the funds—and the editorial covered the case very thoroughly, it was deemed advisable to send that out rather than go to the trouble of preparing another circular.

Q. Do you know whether at any time the editorial was submitted to the Executive Council for their approval before it was issued? A. I have no recollection, but I do not believe it was.

Q. Do you recall whether or not it was submitted to counsel? A. I have no recollection.

Q. You have no knowledge on that subject? A. I have no knowledge on that; I have no recollection in regard to it.

Q. Do you know that it was not submitted to the Court for approval, or as information as to whether or not the issuance of such a document was forbidden by the terms of the injunction? A. It never entered my mind. I never dreamed that that order of the Court would prevent the officers of the Federation from appealing for funds.

Q. You do not answer my question. I ask that the question be repeated.

The stenographer read as follows:

“Do you know whether it was submitted to the Court for approval or as information as to whether or not the issuance of such a 559 document was forbidden by the terms of the injunction? A. I did not submit it to the Court.

Q. Nor do you know of its having been? A. Nor do I know of its having been.

Mr. RALSTON: Or to Mr. Davenport? A. That I do not know.

Q. Did you take the responsibility of issuing all those documents in regard to which you have testified, without consulting the Court as to whether or not it could be done without infringing the order? A. I never consulted the Court in regard to any document or circulars issued by this office.

Q. Of course in connection with this case? A. In connection with this case.

Q. You took the responsibility of doing it without consulting the Court? A. I never issued any document that I imagined the Court had any interest in.

Q. Now I think if you will furnish me the information that you say you will procure if you can, that is all I care to ask you anything about.

Mr. RALSTON: I desire to reserve the cross examination until I have had a chance to read over the direct examination. I do not think I shall have more than two or three questions to ask if I have any.

Witness excused.

560 SAMUEL GOMPERS, having duly affirmed, deposes and says:

By Mr. DAVENPORT:

Q. You are president of the American Federation of Labor, I believe, are you not? A. I am.

Q. And one of the defendants in the action of the Buck's Stove & Range Company against the American Federation of Labor *et al.*, in the Supreme Court of the District of Columbia, are you? A. I am.

Q. And are you one of the defendants to whom a rule to show cause was issued, in response to a petition filed to have you adjudged guilty of contempt, with Mr. Mitchell and Mr. Morrison? A. I am.

Q. Mr. Gompers, when did you first learn that a temporary injunction was to be issued in this cause by Judge Gould? A. Was to be issued, or had been issued?

Q. Was to be issued? A. I cannot recall, sir.

Q. Do you remember where you were on the 17th of December, 1907? A. I do not; that is, from memory. I travel around considerably. I am continually——

Q. (Interrupting.) Were you familiar—— A. (Interrupting.) Will you permit me to finish my answer?

Q. Certainly, if it is not too long. A. If your questions
561 are as clear and concise as I shall try to make my answers, I think we will get along better.

Q. You may complete your answer, of course. A. I travel around considerably, and I make no memoranda of my comings and goings; hence there is not really fixed in my mind any particular time as to where I may be. It would make it necessary for me to look up memoranda, if there be any, to refresh my memory. I could not tell where I was on December 17, 1907.

Q. Do you remember where you were when you first heard that Judge Gould had rendered an opinion that a temporary injunction should be issued in this case? A. I think I was in New York.

Q. Do you recall whether you were in attendance upon a meeting of the National Civic Federation? A. I do not connect the two.

Q. Do you recall that you were there in December? A. I was there last winter, sometime.

Q. Is that as definite as you can state? A. Yes sir.

Q. Do you remember attending a meeting in December, 1907, at which you presided as vice-president of the Civic Federation? A. The National Civic Federation?

Q. Yes. A. Some time last winter. As to which month I can not tell, sir.

Q. Do you recall whether you were in attendance there when you first learned of this action of Justice Gould? A. No, sir.

Q. Do you recall whether Mr. John Mitchell was in attendance at that Civic Federation meeting in New York? A. I do not recall, but my impression is that he was not—pardon me. I do now recollect that he was.

Q. Were you present at a banquet given by the Federation, at which Mr. Mitchell made an address? A. I was.

Q. And on the following day, do you recall that you presided at a meeting at which he spoke? A. I think not; that is, I do not think I presided when he spoke.

Q. Did you know of his speaking there at that meeting—not at the banquet, but the day following? A. I do not.

Q. When did you return to Washington after learning of the action of Judge Gould? A. I did not learn anything in any authentic manner at all, nor in any manner that made an impression upon my mind that Justice Gould had issued an injunction. I saw it in the newspapers, but I do not always credit that which I see in the newspapers.

Q. Did you see in the newspapers, in the New York papers of the afternoon of December 17, 1907, that Judge Gould had decided that an injunction should be issued? A. I did not. I saw a newspaper man who came to me and stated that Justice Gould had issued an injunction.

Q. Now, is there any way of refreshing your recollection. 563 Mr. Gompers, as to the date of your return to Washington after learning that fact? A. No sir.

Q. As to the date of your return to Washington after learning that fact? A. No sir.

Q. Whether it was the next day, or the day following? A. Within three or four days after the newspaper man had so informed me, I returned to Washington, if that is sufficiently definite.

Q. That is as definite, apparently, as you can make it. Did you communicate at all with your office here, or with Mr. Morrison, in reference to the matter before you returned? A. I think not, sir.

Q. Are you clear about that? A. I have no recollection of communicating with my office here upon that subject.

Q. Nor any impression? A. There is no impression upon my mind either way.

Q. Did you take any steps, in consequence of the action of the court, in hurrying up the issue of the January number of the American Federationist?

Mr. RALSTON: I object to that question as immaterial.

A. To my mind, that question has no application to the proceedings now under consideration and before the court.

Q. Is that the best answer you can give? A. I think it is a pertinent answer.

Q. Please repeat the question, Mr. Stenographer.

The stenographer read as follows:

564 "Q. Did you take any steps in consequence of the action of the court in hurrying up the issue of the January number of the American Federationist?" A. Now, repeat my answer, please.

The stenographer, reads:

"A. To my mind, that question has no application to the proceedings now under consideration and before the court."

A. And I will add that it requires no answer from me.

Q. Do you decline to answer? A. I think I am not required to answer it.

Q. Do you decline to answer? A. I decline to answer it, for that reason.

Q. Mr. Examiner, I ask that that question be certified to the court.

The EXAMINER: I will so certify it.

The WITNESS: Now, I want to facilitate the hearing. While I am satisfied that the court would not require me to answer that question, I will answer it.

Mr. DAVENPORT: Then it is not necessary that it be certified, Mr. Examiner.

The EXAMINER: Very well.

Mr. DAVENPORT: Repeat the question, so the witness can answer it.

The stenographer read as follows: "Did you take any steps in consequence of the action of the court in hurrying up the issue of the January number of the American Federationist?" A. I did.

Q. Ordinarily, on what date would the issue have appeared? A. About the 24th.

Q. Not before the 24th? A. Not often; sometimes.

Q. What steps did you take? A. I asked the printer to let me have the complete number of the American Federationist for that month somewhat earlier than usual.

Q. When did you make that request to him? A. I could not tell you. I think it was orally; perhaps over the phone.

Q. From where? A. From here, I think.

Q. After your return here? A. I think so.

Q. Are you not clear about it? A. I am not sure.

Q. Have you any recollection at all of communicating from New York? A. No sir.

Q. Are you clear that you did not? A. I am not clear.

Q. Your impression is that it was oral? A. Yes sir.

Q. Did you assign any reason for this? A. To the printer?

Q. Yes. A. No sir. I simply asked him to hurry up the job.

Q. Now, is it your best impression that it was done after 565 you returned here to Washington? A. I think so, sir.

Q. And your impression is that it was some three or four days after you saw in the newspaper the action of Judge Gould? A. I said within three or four days.

Q. Of how many copies did that edition consist? A. I have no recollection. It was quite an edition.

Q. Can you state any more definitely than "quite an edition"? A. No, I cannot say definitely.

Q. Can you not tell about how many? A. I think not.

Q. Have you any means of ascertaining? A. No sir.

Q. From the books under your control? A. There are no books under my control.

Q. There are none? A. No sir; other than the American Federationist and the general writings and editorial utterances, and so forth.

Q. What officer of the Association, or employé of the Association would have that information. A. I think the printer would have the best information.

Q. Is there no officer here that would have it? A. I usually give the printer the order for the number of copies, and that order is binding.

Q. Bidding upon whom? A. The printer, and all others.

Q. Then, in order to ascertain the number of copies that
567 were printed and delivered here, we shall have to resort to the printer, shall we? A. I do not know whether that is very material, so long as we tell you there was quite a number—several thousand.

Q. Well, you said quite a number, and you could not be any more definite. Now you say, several thousand? A. Yes.

Q. Now, can you be any more definite than that? A. No. It may have been fifteen thousand.

Q. It may have been? Do you mean there were as many as that? A. I think there were.

Q. Any more? A. Perhaps.

Q. Well, it is your impression that there were, is it? What is your impression about that? A. About that, I suppose.

Q. About fifteen thousand? A. Yes.

Q. Do you think it reached as high as twenty-thousand? A. It may have, although I doubt it.

Q. Are you able to state on what day they were received here? A. I cannot fix the date, but it was a day or two or three, before the 24th.

Q. A day or two or three before the 24th? A. Yes.

Q. Was it before the 23rd? A. It may have been. I
568 cannot tell you definitely, sir.

Q. Was it before or after you had learned that the undertaking had been filed? A. It was before.

Q. The undertaking filed by the petitioners, as required by the temporary injunction? A. Yes sir.

Q. Did you learn from your counsel, or in any other way, that the injunction would not take effect until the undertaking was filed and approved by the court? A. Yes sir.

Q. And was it your object, in hurrying up the publication, to get the copies distributed before the undertaking was filed? A. I had

them printed before the undertaking was filed and that was my purpose.

Q. What was your purpose? Your answer is a little vague. Mr. Stenographer, please read the question and answer.

The stenographer read as follows:

"Q. And was it your object, in hurrying up the publication, to get the copies distributed before the undertaking was filed? A. I had them printed before the undertaking was filed and that was my purpose."

Q. So that they could be distributed before the undertaking was filed? A. So they could be printed and distributed.

569 Q. Do you know that they were delivered here at the headquarters of the American Federation of Labor? A. Yes sir.

Q. Did you see them? A. Yes sir.

Q. A very large quantity, were they not? A. I have already answered that question.

Q. In bulk? A. Yes sir.

Q. Did you superintend the mailing? A. I did.

Q. Yourself, personally? A. I did.

Q. I do not suppose you physically handled all these copies, did you? A. I did not carry them.

Q. You did not physically handle them, did you? A. No.

Q. To whom did you assign that duty? A. I did not assign anybody to that duty. It was the ordinary course of distribution.

Q. Explain that then, if it was. What was the course of distribution pursued in regard to that issue? A. The envelopes containing the addresses are written weeks in advance of the regular issues of the American Federationist, so that they may be ready when the American Federationists are received from the printer, and they may be received then and placed in the envelopes ready for mailing at the earliest possible moment after receipt.

570 Q. Well, I infer from your answer, and I suppose correctly, that in regard to this issue the envelopes had already been prepared? A. Yes sir.

Q. And addressed to whom? A. To the secretaries of unions, to organizers, to subscribers, to libraries, to universities, colleges and students.

Q. Do you know who it was that placed the different copies in these different envelopes? A. I do not.

Q. Have you any means of ascertaining? A. It would only be hearsay if I did.

Q. I say, could you ascertain, so you can convey to me that information? A. It would be mere hearsay if I did.

Q. Hearsay or not, can you give me the information by which I can ascertain the persons who actually placed those copies in the envelopes for conveyance? A. I could not tell you sir, and if you will permit me to explain, perhaps you will see how it is impossible. Usually about that time of the month we employ extra young ladies

and young men to do that work, and they do that work only, and probably we may never see them again.

Q. Is there any particular person that you have in mind who, in your behalf, superintended that work, in order to expedite it? A. No; there is not.

Q. Do you know whether or not Mr. Andrew Furuseth had
571 any connection with it? A. I think he did not. In fact, I am satisfied he did not.

Q. He had no connection with it? A. I think he had not.

Q. How many of these copies were so disposed of? A. I could not tell you, sir; but nearly all.

Q. About how many? A. I say about nearly all.

Q. That is, nearly the fifteen thousand? A. Yes sir.

Q. And to whom were they sent? A. Secretaries of unions—

Q. (Interrupting.) What unions? A. Unions of the United States directly affiliated to the American Federation of Labor.

Q. That is, for instance, the unions of the United Mine Workers, and such unions? A. No sir.

Q. Well, to whom were they sent when you say they were sent to the secretaries of unions? A. They were sent to the secretaries of the unions directly affiliated with the American Federation of Labor and to the secretaries of city central bodies, to the subscribers, universities and colleges.

Q. About how many were required for the purposes you have specified? A. About that number, sir.

572 Q. About fifteen thousand? A. Yes sir.

Q. Are you now quite correct about that, Mr. Gompers?
A. As correct as my memory serves me.

Q. You have testified in regard to this subject before, have you not, in this case? A. I think I have—not in this case, sir.

Q. In the case of the Buck's Stove & Range Company against the American Federation of Labor. A. But that is not in this proceeding.

Q. Not this proceeding, but this case. This is a proceeding in the case. You have testified in regard to it? A. I testified on the original injunction proceeding.

Q. Do you have any association with what is called the Washington News Company? A. Yes.

Q. Did you furnish any copies to that association, or company?
A. Yes sir.

Q. How many to that company? A. I do not know.

Q. Well, you have disposed of fifteen thousand otherwise, apparently, I should judge from your testimony. How many did you furnish to the Washington News Company? A. I do not know.

Q. Can you give us any approximate idea? A. I could not.

Q. Do you know that any were furnished to it? A. I do not know, except in a general way, that they are generally furnished to that news agency.

573 Q. Did you give instructions to have them furnished to them? A. I do not know. I do not recollect.

Q. I will see if I can refresh your recollection upon the subject.
A. I shall be glad to have you do so, sir.

Q. Did you give directions to have the copies, whatever they were that went to the Washington News Company, delivered to it? A. I do not recollect, sir.

Q. Is your mind blank on that point? A. I resent the insinuation that you are speaking of my mind as being a blank.

Q. I do not think that is very serious. A. It doesn't make a particle of difference. I want you to address me in a respectful manner.

Q. I will ask the question, is your mind a blank upon that subject? A. That is an impertinent question.

Q. Do you decline to answer it? A. That is an impertinence. My mind is no blank on any subject.

Q. Then your mind is not a blank on that subject? A. My mind is not a blank on that subject, nor on any subject.

Q. Will you tell us whether or not you have any impression in regard to the matter? A. I do not recall that I gave any directions for the number of copies to be furnished to this news agency or newspaper agency.

Q. Do you recall when you learned that the undertaking had been filed and that the injunction had become, as you understood it, operative? A. I do not now remember the date or the time. I remembered it distinctly at the time when I testified upon the original injunction proceedings. I recall this, that upon a certain date after the printing and distribution of the January issue of the American Federationist, our attorneys advised me that at a given hour the undertaking had been filed, or made, and that the injunction then had its binding effect.

Q. Now, I think it is fair to you and the court, which is supposed to be concerned in all this business, that your answers on this hearing should be under all the information that you may have, and I accept the correctness of your remark that you were fresher in your memory then than now because you testified on the 30th of January, 1908; and I will read to you the questions put to you and your answers, and if you want to make any correction, you may indicate them. These questions were propounded to you by me.

Q. Was the January number for 1908 published by the Federation of Labor? A. Yes sir.

Q. What was the date of the publication of the number for January, 1908? A. About the 20th or 21st of December.

Q. How many copies were printed? A. I don't remember.

Q. About how many? A. I can not tell.

Q. What officer connected with your company would be able to give us that information? A. That is not a—it is not a company.

Q. Your association? A. It is not an association, either. It is a federation.

Q. Your confederation, then? A. Thank you for using the right word. Who can tell?

"Q. Yes. A. I could ascertain and tell, but is not that a business secret?

"Q. I do not know that there are any business secrets. A. Well, I regard that as a business secret.

"Q. Well, they have to give way sometimes. I would like to know. A. Well, more than a thousand.

"Q. More than a thousand? A. More than 10,000.

"Q. And where were they printed? A. In Washington.

"Q. At what place? A. At the Law Reporter Company.

"Q. When were they printed? A. I could not tell you; I can only tell you when they were received.

576 "Q. When were they received? A. About December 20th or 21st.

"Q. That is, they were received from the printer December 20th or 21st? A. About that; I am not sure as to the date, but I made it a special purpose to get it out a day or two earlier, and if that is the purpose of your question I will tell you.

"Q. What is it? A. It was to issue the American Federationist before the undertaking had been made, so as to make the injunction of Justice Gould effective.

"Q. You knew at the time that the order had been made? A. Yes sir.

"Q. And as soon as the undertaking was filed it would become operative? A. Yes sir.

"Q. And your object in having it printed on the 20th or 21st, or received by you on the 20th or 21st, was for the purpose of receiving them before the injunction became operative? A. My understanding of the injunction was that it had no force or effect, just as if it was not issued at all, until the undertaking was approved by the Court, and hence it did not exist.

"Q. Your object, then, was to receive them from the printer before the injunction became technically operative? A. Actually operative.

"Q. Actually operative? A. Yes, sir.

577 "Q. And there were how many—over 10,000? A. Oh, yes.

"Q. Well, 'Oh, yes' means what; does that imply that there were more than 20,000? A. I don't know that that is material. It is a fact that there were more than 10,000.

Q. And where were they received? A. At the office of the American Federation of Labor, 423-425 G street, northwest, Washington, D. C.

"Q. What day of the week was that? A. I think it was on Saturday.

"Q. On Saturday, December 21, then? A. I don't know.

"Q. But you received them on Saturday?

"Mr. RALSTON: No; he did not say he received them on Saturday.

"The WITNESS: I did not say I received them on Saturday. They were received at the office of the American Federation of Labor.

"By Mr. DAVENPORT:

"Q. Were those 10,000 copies distributed? A. Yes, sir.

"Q. From the office? A. Yes, sir.

"Q. In what way? A. Through the mails, through carriers, through direct purchases.

"Q. At what time? A. Before the injunction had gone in operation.

578 "Q. I take it, then, before the 23rd? A. If that is the date when the injunction became operative, that is the fact.

"Q. Carriers about Washington? A. Not very many carriers.

"Q. You mean letter-carriers? A. Letter-carriers, yes.

"Q. What company distributed them about Washington for you?

A. Some newspaper agency; I can not give you the name of it, but I think it is located somewhere on Fifth street.

"Q. Is it the Washington News Company? A. I think it is.

"Q. Do you know how many of those were delivered to them? A. No, sir.

"Q. Do you know whether they distributed them among the retail news dealers in the city of Washington? A. I suppose so; I don't think they want to keep them.

"Q. I suppose you had them sent to this concern for purposes of distribution, did you not? A. Yes, sir.

"Q. And the very object of having them printed and issued was that they might be distributed? A. Yes sir.

"Q. To the public? A. Yes, sir.

579 "Q. Have you any of them now in the office of the American Federation of Labor? A. Yes, sir.

"Q. How many? A. I could not tell you.

"Q. About how many? A. I could not tell you.

"Mr. RALSTON: That has been answered before. You went into all that about two hours ago.

"Mr. DAVENPORT: Oh, not; I think not.

"By Mr. DAVENPORT:

"Q. Are then on sale at the office of the American Federation of Labor? A. For those who want them.

"Q. At the present time? A. Well, we haven't any copies really for sale, of the January issue.

"Q. Have you copies there? A. Yes, sir.

"Q. A considerable quantity of them? A. Not so very many. We keep enough for binding and permanent record.

"Q. Is that all you have left? A. That is about all we have left; yes, sir.

"Q. Could you give us any idea how many of those there are? A. No, sir; enough for binding and permanency. We furnish them to libraries and universities and institutions of learning, and they always keep them on record.

580 "Q. You say 'we furnish them.' You mean you have been furnishing them since the 23rd of December? A. I think they were in the mails before that, sir.

"Q. Are you sure about it? A. I am almost positive.

"Q. Well, are they on sale? A. No, sir; they are not now for sale.

"Q. They have been on sale during the month of December? A. I don't know, sir—what can I say? I don't know; I haven't the time to attend to the business end of the purchase and sale, and you will have to do without that.

"Q. You say your purpose was to receive these before the injunction became operative? A. Yes, sir; the same as any man might act in regard to a law of Congress, that was to become operative on a certain date. A man could act just as he pleased in respect to that law before it became operative, so long as it was not in contravention of law.

"Q. What was there about that issue that made you so apprehensive and so careful? A. I was not apprehensive.

"Q. So careful about it, then? A. I desired that the American Federationist should go through the mails before the injunction became operative.

"Q. Was it because there was something in it that you were forbidden to do, if done after the injunction became operative? A. Yes, sir.

"Q. You were conscious of the fact that if you postponed
581 the distribution of these until after the injunction became operative you would be violating the terms of the injunction? A. I was conscious that there was a matter in that issue which I did not care to yield, did not think I had a right to yield, certainly not until after the injunction became operative.

"Q. You understood that the injunction prohibited you from publishing that document containing the 'We don't patronize list,' with the name of The Buck's Stove & Range Company in it, did you not? A. Yes, sir.

"Q. And it was for the purpose of accomplishing the distribution of that before the injunction became operative, as you understood it, that you did this? A. Yes, sir. I did not know at what time the undertaking would be made, or that the undertaking would be made at all. I was not aware of it. I did not know what the attitude of The Buck's Stove & Range Company was, or what the attitude of its counsel was.

"Q. What did you suppose about it? A. I thought that it might.

"Q. And therefore you distributed these? A. Yes, sir.

"Q. Did you have a large number of unions to which you sent that in various parts of the country, through the mails? A. I did, sir. Not 'I,' but it was done. I assume the responsibility for it.

"Q. Certainly; you are the president, and you are the general
582 representative of the organization. A. Yes; I am responsible for it.

"Q. You have unions throughout the country? A. Yes, sir; affiliated to us, and, as I said, we send it to libraries and universities and colleges, and also to individual subscribers.

"Q. Do you know whether one was sent to the Congressional Library in Washington? A. I know that the Congressional Library is on our mailing list, and I assume that one was sent there, sir.

"Q. Have you unions in California? A. Affiliated?

"Q. Yes. A. We have local unions, affiliated to international unions.

"Q. Yes; and to whom these were sent? A. Yes, sir; but I suppose they were in transit.

"Q. That they would be in transit on the 23rd? A. More than likely, sir. I did not give it a thought, but I suppose so now that you ask me the question. I never gave it a thought.

"Q. At the time you did this? A. Yes.

"Q. Did you give orders to have them sent out? A. I gave orders that they be sent out as soon as possible after the receipt from the printer.

"Q. After you knew that the injunction had been signed by the Judge? A. But it was not operative at the time——

583 "Q. I understand what you say about that—— A. And I understand what you say, sir.

"Q. After the injunction had been signed? A. But it was not operative until the undertaking was approved by the Court, and so far as its materiality was concerned, or its effectiveness, it was as if no injunction had been issued until the undertaking had been approved by the Court.

"Q. At the time you sent this out through the mails, you supposed they would be in transit? A. I did not suppose anything of the kind; I did not give the matter a thought, as to whether it was California or Kalamazoo or the District of Columbia.

"Q. You did not care whether they were in transit? A. No; I simply gave the order that they should be mailed as soon as possible.

"Q. In order to forestall the order of the injunction? A. Not to forestall, but because there was no injunction operative or in existence.

"Q. And you anticipated that there would be one? A. I did not know.

"Q. Did you anticipate that there would be one? Have you not already stated that the purpose in doing this was to get them out before this became operative? A. Yes.

"Q. Because there was something in there that was forbidden to be done? A. No, sir; because the injunction was not operative, it was as if no injunction had been issued.

584 "Q. Do you know whether any of these have been sold in Washington since the 23rd of December? A. The January number?

"Q. Yes. A. I don't know.

"Q. What steps have you taken to prevent them being distributed? A. On one day after the injunction became operative I asked all the employees in the office of the American Federation of Labor to assemble and, for the first time in my administration of the office of president of the American Federation of Labor, I addressed the employees of the office and called their attention to the fact that the injunction had been issued and was in force; and I asked every employé to be careful and not to violate any of the terms

of the injunction; that if there was anything in the matter at all that might in their opinion be violative of the injunction, to bring the matter to my attention, for I would not wish that any one else would be compelled to bear the responsibility of anything in connection with that matter. I wanted to at least safeguard the employees from doing anything that would violate the terms of the injunction or in any way rendering themselves liable to the Court's action.

"Q. When did you first learn that the injunction had become operative? A. I think on the afternoon——

"Q. Of the day when the undertaking was approved by Justice Gould? A. Yes. On that afternoon Mr. Siddons, one of our attorneys called me up over the 'phone and told me that he had been officially informed that the undertaking had been approved, and that the injunction had its full force and effect, and I think that was about 3:20 o'clock of that afternoon. The following day, I think it was, I received a written notice from Messrs. Ralston & Siddons, to that effect.

"Q. What day? A. The following day.

"Q. Then at 3:20 on Monday afternoon—— A. I think that is the time.

"Q. You were informed by one of your counsel that the injunction was operative? A. Yes, sir.

"Q. Had become operative? A. Yes, sir.

"Q. Now, what steps did you take to prevent the distribution of these by the Washington News Company? A. I did not have any business with the Washington News Company in regard to that. The effect of my dealing with them, so far as the distribution of the January issue was concerned, was the same as with any other issue; it ended with handling or sending over the copies to the Company.

"Q. Do you sell them to the company? A. We furnish them with a requested number of copies and they are returnable, unsold copies are returnable.

"Q. Did you ask them to return all the copies undisposed of? A. No, sir. I am under the impression that they did not have any unsold copies, because they were taken up with greater alacrity than usual."

By Mr. DAVENPORT:

Q. Now, is there anything in your testimony which I have thus read to you which you now think was incorrect? A. I think it is correct.

587 (Continuation of Session of Saturday, After Recess.)

By Mr. DAVENPORT:

Q. Mr. Gompers, what was your purpose in distributing the January, 1908, number of the American Federationist before, according to your understanding, the injunction was operative?

Mr. RALSTON: Objected to as immaterial.

Mr. DAVENPORT: Suppose, to expedite matters, that it be stipulated that all objections may be regarded as noted.

Mr. RALSTON: Yes, let it be stipulated between the parties that all objections to testimony may be considered as reserved, and may be made at the hearing as if now entered upon the record. Counsel for the defendants reserve the right, in addition, to interpose objections, of any special character at the time questions are asked, or exhibits presented.

The question was repeated by the stenographer, as follows:

"Q. Mr. Gompers, what was your purpose in distributing the January, 1908, number of the American Federationist before, according to your understanding, the injunction was operative?" A. Because of its educational character.

By Mr. DAVENPORT:

Q. In what way? A. In economics, and sociology, and principles, and law.

Q. Was that the reason why you hurried up the publication, so as to get it out before the injunction became operative? A. 588 It had considerable influence upon me.

Q. Did you endeavor to ascertain from the printer whether or not it would be practicable to take out the name of the Buck's Stove and Range Company from the "We Don't Patronize List" before it was issued? A. I have no recollection; I think not.

Q. Had you any purpose in doing this to injure the business of the Buck's Stove and Range Company? A. No sir.

Q. None whatever? A. None whatever. Insofar as the influence upon the Buck's Stove and Range Company, I had hopes that it might tend toward agreements between that company and its former employes.

Q. By getting it out before the 23rd? A. No, not necessarily that, but that it be gotten out.

Q. Well, you understood that you were enjoined from printing it or publishing it with the name of the Buck's Stove and Range Company on the "Unfair" or the "We Don't Patronize" list, did you not? A. I understood nothing of the kind, and as a matter of fact there was no such injunction in force.

Q. I understand your position in regard to that; but you knew that an injunction order had been signed prohibiting it, did you not? A. I did.

Q. And you anticipated that it would certainly become 589 effective, did you not? A. No, I anticipated nothing of the kind.

Q. What reason, then, was there for that activity in the interim? A. I had a number of engagements which it was necessary for me to keep, and I desired to keep them. There was nothing in the way, no legal prevention or inhibition to my getting out the American Federationist.

Q. Was that the reason you hurried up the publication—because you had other engagements? A. Not entirely.

Q. What other reason was there? A. The possibility that the Buck's Stove and Range Company would make these undertakings

and thereby give force and operation to the injunction issued by Justice Gould.

Q. I don't think you fully comprehend the point of my inquiry. I take it that in your answers already given you have declared that that was the purpose you had in hurrying up the publication; but what I want to know is why you should take such a course as that, why you should desire to anticipate the operation of the decree. You have already said it was not for the purpose of injuring the Buck's Stove and Range Company, nor for the purpose of benefitting the Buck's Stove and Range Company. What was the thing that you sought to accomplish by getting out that particular issue before the decree became operative? A. Anticipating that the Buck's Stove and Range Company might make the undertaking which would give force and effect to the injunction issued by Justice Gould, I sought to have the American Federationist printed and published before that injunction became effective.

Q. I understand your purpose in that respect. That is specifically made clear by your testimony already given. What I now want to know particularly from you, is what object you expected to accomplish by getting it published before the injunction became operative. This is, if I may be allowed to say so, a somewhat unusual proceeding, where the injunction order had been signed and you supposed that having proceeded that far, a bond would be given and the injunction would soon become operative, you were solicitous to get the thing out so that it would not fall under the ban, as you understand it, of the injunction. Now, what did you hope to gain or accomplish by that? A. Nothing in particular, other than the continuation of the Buck's Stove and Range Company upon the "We Don't Patronize" list of the American Federationist, until the mandate of the court became operative, if it ever did become operative.

Q. Was your purpose in keeping it on the list to interfere in any way or impede the business of the Buck's Stove and Range Company? A. I don't know that the business of the Buck's Stove and Range Company has been interfered with or impeded, except from the statements, in the allegations by the company itself.

Q. Well, you knew that the court had so found, did you not, as the basis for its action, that it had been injured, and was threatened with injury from the continuance of these acts, and the other acts specified, unless you were enjoined. Now, what I want to get from you, if I can, is the answer to this question: Whether or not it was for the purpose of affecting in any way, first, the business of the Buck's Stove and Range Company? A. Only in so far as it would have the influence upon our fellow workmen and friends, to prevail upon the Buck's Stove and Range Company to come to an agreement with its former employes.

Q. Had you not in mind the purpose of keeping open the list in order to lessen the business of the Buck's Stove and Range Company unless and until they came to an agreement with the parties in interest? A. I was in hopes that that might be the effect.

Q. Well, was not that your purpose? A. What was the question? The question was repeated by the stenographer.

A. Yes sir.

Q. That was the original purpose of what we may call, in short, the boycott, was it not? A. It was.

Q. And I suppose it may be all summed up, may it not, in this statement: that the boycott having been declared in the regular way by the American Federation of Labor, you desired it to continue until such time as you were stopped by the order of the court? A.

Or, better still, by the influence of the patrons of the Buck's Stove and Range Company upon the management of that company.

Q. Pardon me, but your answer is not responsive. A. I want to make it so, if I can. I should prefer, though, if you can, that in speaking of this matter you would not use the word "boycott," although, of course, we can understand each other as to what we mean by that term—and then I will call your attention to the fact that in speaking of the American Federation of Labor declaring a boycott, that you are in error, for we did not declare a boycott; we simply endorsed the attitude of the organization having declared a boycott.

Q. Well, we will not quibble about words. This is a matter, it seems to me, that can be answered clearly without any misunderstanding between counsel and the witness, as to the things spoken of. Was not the true reason for your desiring to publish the American Federationist (the January number, 1908) before the injunction became operative, to keep the *status quo*, as we may call it, until such time as the order of the court operated to change it? A. Yes sir.

Q. In your answer, which I read to you last night to this question, you answered as follows. I will read the question and the answer, both:

Q. You were conscious of the fact that if you postponed the distribution of this until after the injunction became operative, you would be violating the terms of the injunction? A. I was conscious that there was a matter in that issue which I did not care to yield, did not think I had a right to yield, certainly not until after the injunction became operative."

Now, what was the matter in that issue which you did not care to yield? A. (After examination of the January number of the Federationist): The appearance of the Buck's Stove and Range Company upon the "We-don't-Patronize-List" of that issue.

Q. In the portion of that list found on page 51 of that issue of the Federationist, under the heading, "Stoves," right before "Wood and Furniture?" A. Yes sir.

Q. Mr. Gompers, did it occur to you that perhaps it would be better to bring the act which you proposed to do before Justice Gould, to see whether or not you could do it? A. No sir, I was editor of the American Federationist and the right of free press I intended to uphold to the uttermost.

Q. And to publish the statement? A. Yes sir.

Q. Notwithstanding the fact that in that respect your opinion was different from that of Justice Gould in this very case? A. But his opinion did not become operative, his rule or order or decree did not become operative until the undertaking had been made and approved by the court, and therefore it had no effect at all.

Q. I will repeat my question.

(The stenographer repeated the question as above recorded.)

594 A. The opinion of Justice Gould was as if no opinion at all had been expressed or had any binding effect until the undertaking had been made by the Buck's Stove and Range Company and approved by the Court.

Q. I ask you this question now, Mr. Gompers: "Whether or not it occurred to you that the act which you were about to do, in distributing this number with the name of the Buck's Stove and Range Company in the "We Don't Patronize List" might possibly be a violation of the injunction. A. I was satisfied beyond any doubt that it did not and could not be construed to be a violation of the terms of an injunction, when the injunction itself was not operative.

Q. Was that the reason why you did not bring the act which you were about to do to the attention of Judge Gould of the Supreme Court of the District of Columbia, who had signed the order? A. It did not seem necessary to me that I should go to the court. I had been haled to the court by yourself so frequently that I was rather desirous of keeping away from it, if I could.

Q. On the 23rd of December, 1907, there was filed in the Supreme Court of the District of Columbia by Messrs. Ralston & Siddons and T. C. Spelling, defendants' solicitors, the following motion to amend the order:

"Motion to Amend Order.

Filed December 23, 1907.

"In the Supreme Court of the District of Columbia.

Equity. No. 27305.

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"BUCK'S STOVE & RANGE COMPANY

vs.

"THE AMERICAN FEDERATION OF LABOR ET AL.

"Now come the defendants by Ralston & Siddons and T. C. Spelling, their solicitors, and move the Court to amend and correct the order passed herein on December 18, 1907, granting an injunction *pendente lite* in the following respects and for the following reasons:

"1. The said order is erroneous in that it is made to run until the final decree in the said cause, instead of until the further order of this Court.

"2. That said order is erroneous in that by its terms it may be

construed to enjoin the defendants from uniting together to agree not to patronize plaintiff's products.

"3. The said order is erroneous in that it might be construed to prevent the defendants and their associates from saying to others that they had united and combined not to patronize the products of plaintiff.

"4. The said order is erroneous in that it might be construed to enjoin the defendants from announcing to others that they had united and combined not to deal with others who should deal with plaintiff or purchase its products.

"5. The said order is erroneous in that it abridges freedom of speech of all the defendants, which is protected by the first amendment to the Constitution of the United States.

"6. The said order is erroneous in that it abridges freedom of the press of all the defendants, which is protected by the First Amendment to the Constitution of the United States.

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"RALSTON & SIDDONS,

"T. C. SPELLING,

Defendants' Solicitors."

and accompanied by the following notice:

"Mr. J. J. Darlington and Mr. Daniel Davenport, Solicitors for Plaintiff:

"You will please take notice that on Friday, December 27th, at the opening of Court or as soon thereafter as the same may be heard before Mr. Justice Gould, we will call up the foregoing motion.

"RALSTON & SIDDONS,

"T. C. SPELLING,

Defendants' Solicitors."

And then:

"Service by copy acknowledged December 23, 1907.

"J. J. DARLINGTON,

"Sol. for Compl't."

That is to be found on page 96 of the Transcript of the Record, Court of Appeals, District of Columbia, and I take it that page 116 means the original record in the court.

Q. Why did you not defer your act till you knew what the ruling of the court would be upon that motion? A. Because the American Federationist is a regular publication and is expected to be in the hands of subscribers and readers not later than a certain date or month, and to have deferred printing would have interfered with the regular publication on publication dates. And, then again, I was not aware at the time, or it did not occur to me, that there was any relationship between the motion you have just read that

597 our attorneys would make.

Q. You have already stated that the usual date for them to be furnished to you, or to the Federation of Labor, was the 24th

of the month, and it varied, and I ask you why, if you were applying to the court for a modification of the order, you did not defer the distribution instead of hurrying it up in the extraordinary manner that you did, until the court had passed upon that order. A. As a matter of fact, you must bear in mind that we are not issuing a daily publication; it is a monthly publication, and the copy for it is generally, copy for all the matter, editorial notices included, furnished to the printer weeks, sometimes weeks, in advance of the printing and distribution, and I was not aware when these matters were prepared that such a motion was to be made.

Q. I would suggest to you that very little alteration in that issue would have obviated entirely this specific——

Mr. RALSTON: The question is objected to as purely augmentative.

Mr. DAVENPORT: I submit that is a proper subject for me to interrogate the witness about.

Q. Did it occur to you that it would have been very easy to have erased from the number the few words, "Buck's Stove and Range Company, St. Louis, Mo.," either by pasting a little slip over it or by drawing a pen through, so as to obliterate it? A. As a matter of fact, the drawing of a pen through would have made it more conspicuous.

598 Q. If it was obliterated? A. Then, the pasting of any paper over it would have involved a labor and pains that would have been prolonged, and, secondly, anyone could have taken off the paper and have seen in distinct print and type the very thing to which you call my attention.

Q. I ask you whether it occurred to you that you could, even after the numbers were received here, have not come in conflict with the order by erasing the words "Buck's Stove & Range Company, St. Louis, Mo." from the number?

Mr. SIDBONS: Question objected to, as it assumes that what was done here was in conflict with the order.

A. It did not occur to me.

Q. Did you have any conference with any of your associates in the Executive Council as to the propriety in suspending the distribution of the number? A. No sir.

Q. Until the matter could be brought to the attention of the court? A. No sir.

Q. Let me call to your attention another matter before I again return to this particular act which I have just been inquiring of. Before you went to the Norfolk Convention, in November, 1907, did you have a conference with your attorneys in reference to the answer which has been filed in the suit, with a view to correcting it and defending it? A. I think so.

Q. And as a result of that conference, did you leave with the understanding that an amended answer should be prepared and
599 forwarded to you in Norfolk for your verification? A. I am perfectly willing to answer, but I imagine that that is a privileged matter.

Q. Oh, no; it is not. A. Yes, I think so, that that is so.

Q. At Norfolk, did you verify it, in company with Mr. Morrison?
A. I don't know that I verified it in company with Mr. Morrison, but I read it casually. I did not have the time to give it very thoughtful consideration. I was engaged in very pressing work of the convention of the American Federation of Labor, as well as in meeting the attempts to assassinate my character by Mr. Van Cleave and his associates, and I was very busy in consequence.

Q. Now, Mr. Gompers, that is an entirely unsatisfactory—— A. But it is true.

Q. (Continuing:) As well as irregular mode of answering the question. The question admits of a direct answer, without bringing in all of those collateral and, you might say, offensive statements. The question is whether or not you verified that amended answer. A. That is not the question. The question was whether I, in company with Mr. Morrison, verified it; and I told you I did not in company with Mr. Morrison.

Q. You did not, in company with him, associated with him? A. I have no recollection of verifying it in company with him, we together, with each other.

600 Q. Do you recall whether you did, yourself, verify it? A. I read it casually.

Q. Verified it, made oath to it? A. Yes sir; that is, I affirmed it.

Q. I was going to call your attention to the certification to it here by the notary. The files show the following to be upon that answer:

"STATE OF VIRGINIA,
County of Norfolk, ss:

"Samuel Gompers and Frank Morrison, being first duly sworn, on oath depose and say that they have read the foregoing amended answer by them signed, and that the matters and — therein set forth are true of their own knowledge, except as to the things therein stated upon information and belief, and that as to the same they believe them to be true.

(Signed)

SAMUEL GOMPERS,
FRANK MORRISON."

A. That is correct, except where it says sworn; I affirmed.

Q. You affirmed. It also appears to be signed by Samuel Gompers, President, and by Frank Morrison, Secretary. Did you sign it?
A. I did.

Q. Did you execute that for use in the case? A. I so take it. I know of no other reason why it should have been made.

Q. And forwarded this to your counsel for use? A. Had it forwarded.

Q. This is an amended answer, the original answer having been
601 filed in September, September 27th, it appears, 1907. I want to call your attention to the following statement in that answer:

"Nor has any notice or statement referring to plaintiff and con-

taining the word "unfair," or any word of the same or similar import, appeared in any subsequent number of the American Federationist, or in any publication owned or controlled by the American Federation of Labor, or by said Executive Council; nor has it been nor is it the intention of the defendants that any such notice hereafter shall be printed or published with reference to the plaintiff."

Did you entertain that intention at that time? A. Yes sir.

Q. You knew the words that were in the answer? A. Yes sir.

Q. When you signed it and verified it? A. Yes sir.

Q. And you made the statement with full knowledge of the fact that it was in the answer? A. Yes sir.

Q. This appears to have been dated, executed, on the 13th day of November, 1907. You understood, did you not, that the application for a temporary injunction was to be heard before Justice Gould on the following day? A. I did not connect one incident with the other. I knew that a hearing was to occur shortly after, but how soon after I could not tell. That is, I cannot tell now.

Q. Well, I notice in your report, which is dated November 11th, in Norfolk, you state, if I am not mistaken, that the matter
602 would come up for hearing on the 14th day of November?
A. If I stated it, it is true.

Q. At any rate, it is so stated in the report of the Executive Council, of which you are a member, I take it? A. Yes sir.

Q. Did you afterward change your intention in regard to that?

A. In regard to what?

Q. The intention to which I have just called your attention, expressed in your answer? A. I did not change my intention.

Q. Let me again call your attention to the phraseology of the answer:

"nor has any notice or statement referring to plaintiff and containing the word 'unfair,' or any word of the same or similar import, appeared in any subsequent number of the 'American Federationist' or in any publication owned or controlled by the American Federation of Labor, or by said Executive Council; nor has it been, nor is it the intention of defendants that any such notice hereafter shall be printed or published with reference to the plaintiff." A. That was the intention then, and has been the intention ever since, unless the Court of Appeals or the higher courts shall determine otherwise in regard to the injunction issued by Justice Gould.

Q. So that, if I understand you, the acts which you have performed in connection with this matter since the date of that answer, do not indicate in any way a change of intention on the part of defendants in regard to printing or publishing a reference to
603 the plaintiff? A. That is a very ingenious question, and does not admit of an intelligent answer.

Q. Repeat the question, Mr. Stenographer, and let us hear what there is about it that is obscure.

The question, as above recorded, was repeated by the stenographer.

A. In-so-far as any notice published in the American Federation-

ist, that the Buck's Stove and Range Company was unfair to organized labor.

Q. There is no change in intention? A. No sir.

Q. So that, to put it pointedly, with reference to the specific acts which you did in connection with printing and publishing the January, 1908, number of the American Federationist, they were in pursuance of the same intention which you had when you verified that answer for use in the case. A. That is, that the name of the Buck's Stove & Range Company would not appear in the columns of the American Federationist as unfair, or words of similar import.

Q. Did you attend a meeting of the Executive Council at Norfolk where its report to the convention was considered? A. I think I did.

Q. And did you sign the report? A. I think not. I don't know that any member of the Executive Council signed the report or signs the report. If a motion or a report is adopted, particularly if it is

604 unanimous, it is taken for granted that the names will be appended, furnished by the typewriter perhaps, or perhaps **torn off a letterhead** of the American Federation of Labor, or some circular, and appended to the matter furnished to the printer.

Q. Let me call your attention to the fact that this report of the proceedings of the 27th Annual Convention of the American Federation of Labor, held in Norfolk November 23-November 29 inclusive, being exhibit A. H. No. 1, on page- 91 and 92, appears the following:

"We Don't Patronize List.

"Applications to endorse the placing of the following firms upon the unfair list of the American Federation of Labor have been made to and approved by the Executive Council, from October 1st, 1906, to October 1st, 1907:

"Buck's Stove & Range Company, St. Louis, Mo.

(International Brotherhood of Foundry Employés)," to which, on page 92, appears signed, "Samuel Gompers" and all of the executive council of the American Federation of Labor.

A. That report, you will observe, is dated November 12th, and was prepared sometime before.

Q. Yes, I observe that. But what I call to your attention is the fact that under the heading "We Don't Patronize List" occurs the following,

"Applications to endorse the placing of the following firms upon the unfair list of the American Federation of Labor have been made to and approved by the Executive Council from October 1st, 1906 to October 1st, 1907."

A. The use of the word "unfair" as you have read it, and as contained in that report, is an error, and should not have appeared there, and it was unintentional.

605 Q. Are you not aware that in every single Executive Council's report on the subject, for ten years, the exact language
19—1990A

there used is employed? A. If it is, it is the employment of an incorrect and improper word in connection with the matters that we desire to present.

Q. Did you use, on November 13, 1907, in your amended answer signed and verified by you at that time, the words "unfair" in any different sense than you used them in the report of the Executive Council made the day before? A. The word "unfair," as used in the amended answer, is accurate and specific.

Q. In the October number of the American Federationist, you used this language, as appears by the petition, and admitted in the return to the rule to show cause:

"Do not fail to keep the Buck's Stove and Range Company, of St. Louis, in mind, and remember that it is on the unfair list of organized labor of America."

A. Where and when was this?

Q. The October number, published perhaps six weeks before you made this answer. A. I am sometimes guilty of the use of incorrect words.

Q. Did you use the word "unfair" in the answer, the amended answer, as verified by you, and to which I have called attention, in the same sense in which you had occasion to use it in the October number, 1907? A. In my amended answer, I think that the term "unfair" was more specifically and accurately stated.

606 Q. Well, then, in order that we may have a meeting of minds upon the subject that I am inquiring of you about—

Mr. RALSTON: Are you going into a contract?

Q. (Continuing:) No, but Mr. Gompers is trying to state the facts, and I am trying hard to elicit information from him, and the first thing that is necessary for us to do, I suppose, is to get some common ground upon which we can have our minds meet. I will now read to you the part of the paragraph of which the portion that I have already called to your attention is the conclusion:

(Reading from transcript of record, page 64.)

"Further answering said paragraph, these defendants say that they admit the publication and distribution of a monthly journal known as the 'American Federationist' substantially as set forth therein, but, in further answer, they say that said Federationist is published for the use and benefit of the constituent members of the American Federation of Labor. They admit the publication therein of what is wrongfully termed in the complaint a list of persons who are called unfair, but which is simply under the heading of 'We don't Patronize.' They deny that the purpose thereof is to use 'the whole power of its (American Federation of Labor) vast organization and combination' 'to injure and destroy their (those not patronized) business thereby.' They deny that said 'We don't Patronize' list prohibits or interferes with any constituent organization or its members 'dealing with any person who purchases, uses or

handles said product.' They admit that in successive
 607 monthly publications of the American Federationist are published an official list of individuals and concerns whom 'We don't Patronize,' but they deny that this is a list of those who 'in previous issues have been declared unfair' by the American Federation of Labor, nor 'which are boycotted,' by the American Federation of Labor, and, if material, pray strict proof thereof; and in connection with this admission and denial, they deny that the, or any, such notice as that described in said paragraph four, or any notice containing the word 'unfair,' appears in each and every issue of said American Federationist, or of any publication owned by the American Federation of Labor or its Executive Council, and allege that such notice has only once appeared in connection with, or referring to, plaintiff, that is to say in the May, 1907, number thereof; and they further allege that in the May, 1907, number of the said Federationist appeared a special notice reading substantially as follows:

'Special Notice.

WASHINGTON, D. C., June 25, 1907.

To All Affiliated Unions:

'At the request of the unions interested, and after due investigation and attempt at settlement, the following concern has been declared unfair:

Buck's Stove and Range Co., St. Louis, Mo.

Secretaries are requested to read this notice at union meetings, and labor and reform press please copy.

SAMUEL GOMPERS,
President American Federation of Labor.'

that said notice has not, nor has any notice or statement referring to plaintiff and containing the word 'unfair,' or any
 608 word of the same or similar import, appeared in any subsequent number of the 'American Federationist' or in any publication owned or controlled by the American Federation of Labor, or by said Executive Council; nor has it been, nor is it the intention of defendants that any such notice hereafter shall be printed or published with reference to the plaintiff."

In what respect is the word "unfair" in its meaning, differentiated from the meaning which is to be attached to the word as contained in the Executive Council's report to which I have called your attention? A. The word "unfair" is a specific notice of a dispute between the employer and the workmen. On the other hand, the "We Don't Patronize List" is a mere statement of fact. The "We Don't Patronize List" did not urge anybody, did not request anybody, to do anything at all, either directly or indirectly, to affect the business relations of employers and employes. It is simply a statement of fact, of incidents which transpired.

Q. Let me call your attention to another statement of yours. In the October, 1907 number of the American Federationist, as quoted

in the thirteenth paragraph of the petition in the contempt proceedings, from the column headed "Editorial Notes," I read as follows:

"The Buck's Stove and Range Company of St. Louis, of which Mr. Van Cleave is president, will continue to be regarded and treated as unfair until it comes to an honorable agreement with organized labor, and this, too, whether or not it appears on the 'We Don't Patronize List.'"

Q. What is the special sense which you say is imparted by the use of the word "unfair" in that connection? A. That is editorial expression, expression of the editor. It is, as the matter you quoted a few moments ago, from the October number of the American Federationist. It is editorial expression, with which no injunction has the right to interfere.

Q. The answer is quite aside from the question. The question is, what different meaning is attached to the word "Unfair" in that connection, from the meaning that it has as employed in the Executive Council's report, as to their action? A. It is a faulty use of the term, and if you will permit me for a moment, I might illustrate it in another way, so as to clearly show it. Our organizations of the working people are often referred to, generally referred to, as labor organizations. That is a physical and intellectual impossibility. There are no organizations of "labor," workmen's organizations, work-women's organizations, but there is a physical, intellectual impossibility for labor organizations to exist; and yet I am free to say that I have fallen into that common error in terminology, along with others; and so probably with the use of the term "unfair."

Q. So that in that respect the quotation is misleading? A. Not misleading; it is scarcely accurately expressed.

Q. Scarcely accurately expressed? A. It is not accurately expressed.

Q. I must confess that I cannot, with my blunted vision, distinguish the difference in the things which you say exist as expressed by the correct use of the term and the inapt use of it. Is that the best answer you can make to my question? A. Yes sir.

Q. Then I will pass to some other interesting matters connected with this.

(At this point an informal recess of a few minutes was taken, and after informal discussion the further examination of Mr. Gompers was at this point postponed, and Mr. Mitchell was called as a witness.)

611 Whereupon JOHN MITCHELL, produced as a witness, having been first duly sworn, testified as follows:

By Mr. DAVENPORT:

Q. Are you one of the respondents in this case of the Buck's Stove & Range Company vs. the American Federation of Labor?
A. Yes.

Q. And were you served with a subpoena when the suit was brought? A. This proceeding now?

Q. Not this one, but the other one, the original. A. I believe I was.

Q. And are you one of the defendants mentioned in the petition to have contempt proceedings? A. Yes, sir.

Q. Are you one of the Vice Presidents of the American Federation of Labor? A. Yes, sir.

Q. One of the Executive Council? A. Yes, sir.

Q. And how long have you held those positions? A. About ten years.

Q. Were you, down to April 1908, the President of the United Mine Workers of North America? A. Yes, sir.

Q. And as such, were you one of its Executive Council?
612 A. Yes, sir.

Q. And does the Executive Council publish a Journal, called the American Mine Workers' Journal? A. The United Mine Workers of America publish a journal called the United Mine Workers' Journal.

Q. Well, does not the Executive Council publish it? In petitioner's exhibit No. 3, at the head of the first column, on page 4, "United Mine Workers' Journal" published weekly by the "National Executive Board of the United Mine Workers of America," that is what appears here. Are you able to state whether or not it is published by them? A. No, it is not published by them.

Q. Although it appears to be so stated in the paper itself. A. I cannot explain that statement. I have no way of explaining the statement that appears at the head of the column.

Q. It appears in the regular place here, giving the official roster. Whom do you say it is published by? A. By an editor under the direction of the International-Secretary-Treasurer.

Q. And under the direction and control of the Executive Board? A. No. The law relating to the matter is embodied in our constitution. (Handing counsel pamphlet copy of the constitution.)

Q. Is this the existing constitution? A. Yes, 1908.

613 Q. In this particular was the constitution revised at your convention held in January 1908? A. Not, so far as I have any recollection.

Q. I would like to offer this in evidence as a part of the examination of Mr. Mitchell.

(The pamphlet referred to was accordingly filed and marked Exhibit A. H. No. 5.)

Mr. SIDDOXS: Do you offer it for the purpose of showing the authority for the publication of this paper?

Mr. DAVENPORT: Not only that but other matters.

Mr. SIDDOXS: I think we have a right to know what you offer it for.

Mr. DAVENPORT: I will sufficiently indicate that I think before we conclude.

Mr. SIDDOXS: We reserve an objection.

Mr. DAVENPORT: In your absence it was stipulated that all objec-

tions might be considered as made without being put on the record after each question that might be objected to.

Mr. SIDDONS: All right, sir.

By Mr. DAVENPORT:

Q. Now, Mr. Mitchell, are you able to state approximately the membership of the International Union of the United Mine Workers of North America, what it was in January 1908? A. Approximately 300,000.

Q. Are you affiliated with the American Federation of Labor?

A. Affiliated to the American Federation of Labor, yes, 614 sir.

Q. And could you state approximately the number of local unions of which the United Mine Workers is composed? A. Approximately 2700.

Q. Will you state whether or not there is a large number of such local unions in the State of Illinois? A. I cannot state the number.

Q. Is there a large number? A. There is a large number.

Q. And also in the state of Indiana? A. Yes, sir.

Q. And the state of Ohio? A. Yes, sir.

Q. Can you state approximately the number in those states? A. Approximately 300 locals in Illinois; approximately 250 in Ohio; approximately 150 in Indiana.

Q. Are you personally familiar with the places in Illinois and Indiana where such local unions are situated, in those states?

Mr. RALSTON: What is the purpose of this question?

Mr. DAVENPORT: To find the information, whether he is personally acquainted with that, as preliminary to another question.

Mr. RALSTON: What is the purpose of finding it out?

Mr. DAVENPORT: As preliminary to another question which I shall ask.

Mr. RALSTON: Well, if you do not care to answer, all right. 615 The WITNESS: I cannot give you the names of the places.

By Mr. DAVENPORT:

Q. Can you not give any of them? A. Yes, I could name some places, but I cannot remember various towns in Illinois where locals are located.

Q. When you were President, was it a part of your duty to preside at the 19th Annual Convention of the United Mine Workers? A. Yes, sir.

Q. Did you preside at that convention? A. Yes, sir.

Q. Do they have a stenographer in attendance upon sessions of the convention? A. Yes, sir.

Q. And does he make a stenographic report of all that is said and done during the convention? A. The stenographer does make such a report.

Q. And are such reports preserved? A. I believe so.

Q. Did you have a stenographer present during that convention? A. Yes, sir.

Q. Who reported the proceedings? A. Yes, sir.

Q. Do you know the name of that stenographer? A. Yes, sir.

616 Q. What was it? A. Mrs. Mary Burke East.

Q. Where does she reside? A. I believe in Indianapolis.

Q. Were her instructions to make an accurate report of the proceedings? A. She had no instructions from me at all.

Q. From whom would she receive her instructions—the Secretary? A. I cannot answer the question. I don't know that any instructions were given to her at all.

Mr. RALSTON: Do you think she would receive instructions to make an inaccurate report?

Mr. DAVENPORT: I do not think you understand the case.

Mr. RALSTON: Don't incumber the record with such useless questions.

Mr. DAVENPORT: If you incumber the record with such remarks the Court will think you fail to comprehend the case.

Mr. RALSTON: I fail to comprehend Mr. Davenport, I do not fail to comprehend the case.

Mr. DAVENPORT: I think very likely you fail to comprehend me.

By Mr. DAVENPORT:

Q. Now, Mr. Mitchell, were you appointed a delegate by your organization to the convention of the American Federation of Labor held at Norfolk in 1907? A. I was elected a delegate.

617 Q. But you did not attend yourself? A. No, sir.

Q. Nor did you attend, I believe, as a Vice President of the American Federation of Labor? A. No, sir.

Q. Do you recall the names of the gentlemen who were appointed delegates with you? A. I recall the names of a number who were elected delegates.

Q. Let me see if this is, as you understand it, a correct list. (Reading:) T. L. Lewis, of Indianapolis, Indiana? A. Mr. Lewis was elected a delegate.

Q. W. B. Wilson, of Indianapolis, Indiana? A. Yes, sir.

Q. By the way, is that the Congressman? A. Yes, sir.

Q. Is he a resident of Indiana? A. No, sir.

Q. He is from Pennsylvania, is he not? A. Yes, sir.

Q. Do you know his place of residence? A. I am not sure.

Q. This says Indianapolis, Indiana? A. It was the mail address of Mr. Lewis, Mr. Wilson and myself.

Q. W. D. Ryan, Springfield, Illinois? A. Yes, sir.

618 Q. John H. Walker? A. Springfield, Illinois.

Q. John T. Dempsey, Scranton, Pennsylvania; G. W. Savage, Columbus, Ohio, and D. H. Sullivan, Indianapolis, Indiana. Does Mr. Sullivan live in Indiana? A. No, sir.

Q. Where does he live? A. In the State of Ohio.

Q. Do you know what place? A. No, sir.

Q. I now show you Exhibit Petitioner No. 2, filed with the original petition in this contempt proceeding, and ask you to state whether or not it is a copy of the minutes of the 19th Annual Con-

vention held at Indianapolis in January 1907? A. (After examination.) It appears to be the minutes of the convention.

Q. Did you appoint the committees to act during the convention?

A. Yes, sir.

Q. Whom did you appoint the Committee on Resolutions? A. I cannot remember.

Q. Can you name any of them? A. No, I cannot remember their names. My recollection is that W. R. Fairley was appointed Chairman of the committee.

Q. W. R. Fairley was appointed Chairman of the Committee on Resolutions? A. That is my recollection.

Q. Do you remember anyone else? A. I cannot remember.

Q. Do you remember whether Mr. Ryan was Secretary? A. I don't remember.

Q. Can you tell me how I could ascertain the names of the individuals whom you appointed on that committee? A. The proceedings of the convention will indicate the members of the various committees.

Q. That which I showed you there? A. The minutes may not be complete in that issue of the paper.

Q. But the proceedings as reported by the stenographer will show it? A. Yes, sir.

Q. Are you acquainted with a gentleman by the name of Harvey Stroud? A. I don't remember anyone by that name.

Q. Or Frank Schafer? A. I don't remember him. If you will tell me where you are reading, I may recall it. Are these the committees? (Indicating.)

Q. No, there are two names here. I notice on page 2 at the bottom of the third column of the Exhibit Petitioner No. 2, the following, which I read to you. (Reading:)

"Resolution No. 73.

620 "Whereas, the Buck's Stove & Range Company of St. Louis, Missouri, have taken legal steps to prevent organized labor in general, and the officers and the Executive Committee of the A. F. of L. in particular from advertising the above named firm as being on the unfair or "We-don't-Patronize" list, and whereas by the issue of such an injunction or restraining order as prayed for by above named firm, organized labor will be deprived of one of its most effective weapons, and whereas J. W. Van Cleave, the President of the above-named firm, and also president of the National Manufacturers' Association, stated that in a few years time he would disrupt organized labor,

"Therefore, be it resolved, that the U. M. W. of A. in 19th Annual Convention assembled place- the Buck's stoves and ranges on the unfair list, and any member of the U. M. W. of A. purchasing a stove of the above make be fined \$5, and failing to pay same be expelled from the organization.

"(Signed)

HARVEY STROUD,
FRANK SCHAFER.

Endorsed by Local Union No. 755, Staunton, Illinois.

Referred to Committee on Resolutions by Committee on Distribution."

Did you appoint a committee on Distribution? A. Yes, sir.

Q. Are you able to state who they were? A. No, not without referring to the record.

621 Q. You do not recall any particular person? A. My recollection is that Mr. Wilson and Mr. Evans were two members of that committee. I am not positive of that.

Q. Mr. W. B. Wilson that you have spoken of before? A. Yes, sir.

Q. Who was the other? A. Mr. Evans.

Q. How would I be able to ascertain the names of the individual members of that committee on Distribution? A. By reference to the records of the convention.

Q. The proceedings? A. Yes.

Q. Which are kept by whom? A. Mrs. Mary Burke East.

Q. Is she a steady employe of the organization? A. No, sir.

Q. When she has completed the record of the proceedings does she retain it or does she turn it over to somebody? A. I don't know of my own knowledge. I presume she turns it over to the International Secretary-Treasurer.

Q. And who is that? A. At that time, Mr. W. B. Wilson.

Q. Do you know who his successor was? A. He is W. D. Ryan.

Q. Of whom you have previously spoken? A. Yes, sir.

622 Q. Where is his office? A. Indianapolis, Indiana.

Q. In what building? A. The State Life Building.

Q. And is it your impression that those proceedings are to be found there? A. I don't know. I have no official relation with the United Mine Workers at this time.

Q. Are you personally acquainted with Mr. John H. Walker, Springfield, Illinois? A. Yes, sir.

Q. Do you know what position he holds in your organization in the State of Illinois? A. Yes, sir.

Q. What is it? A. President of District No. 12 of the United Mine Workers of America.

Q. Does that comprise the whole state of Illinois? A. Yes, sir.

Q. How long has he held that position? A. Two or three years.

Q. Does he hold it now? A. Yes, sir.

Q. I observed in looking over these proceedings as they appear in the Exhibit Petitioner No. 2, that at every session of the Convention it was called to order by yourself as President, in the chair.

A. I don't remember that I opened every session, but likely

623 it is so.

Q. If it so appears in these proceedings, have you any doubt that you were there? A. No, no doubt at all.

Q. Were you in New York, in attendance upon the National Civic Federation on the 16th and 17th of December 1907? A. I don't remember the date; I was at a meeting of the Civic Federation in the fall of 1907.

Q. Do you remember being present at a banquet that was given on the evening preceding the business proceedings? A. I remember being at a banquet, but I don't remember whether it was preceding or succeeding the business meeting of the National Civic Federation.

Q. At which you made an address? A. At the banquet?

Q. Yes. A. Yes.

Q. Or responded to some toast? A. Yes, sir.

Q. And do you recall whether or not you were present at a meeting of the Civic Federation on the following day? A. I don't remember whether it was the following or the preceding day.

Q. But either the following or the preceding day? A. I believe so.

Q. What time did you leave New York? A. I don't remember.

Q. You remember that you went from New York to Indianapolis to attend, perhaps you would call it, a conference?

A. Yes, sir.

Q. A conference between the operators and the miners? A. Yes, sir.

Q. Do you remember the day that you arrived there? A. No, I don't remember.

Q. You remember the day when you were taken suddenly ill? A. I don't remember the date. I remember it was around about the 25th or 26th of December.

Q. Was it not on the 20th of December? A. Probably, I don't remember.

Q. Did you not arrive at Indianapolis on the 19th? A. I don't remember, but likely I did.

Q. The day before? A. Likely I did, though I can't remember.

Q. Do you not remember that you went to the Claypool Hotel, where this conference was held and met people there? A. I do remember meeting people there—you mean that I went from the train there.

Q. Well, you went there? A. The conference was at the Claypool Hotel.

Q. Do you not recall that that night you were taken ill? A. No, sir, I was not.

Q. That is, you suffered a good deal, and the following day you became critically ill? A. No, sir, that is not correct, I have
625 no such recollection.

Q. Well, what is your recollection as to the length of time that you were in Indianapolis before you became ill? A. My recollection is that I was there one day. I was not ill the first day that I was there.

Q. If we are able to fix the date on which you were taken ill, are you able to state thereby the day when you left New York? A. I say that if it was the 20th of December when I was taken ill, I believe I left New York on the 18th.

Q. On the 18th of December? A. Yes, sir.

Q. Did you attend the sessions of the Federation until you did leave? A. Not all of them.

Q. Do you remember attending a session at which Mr. Gompers

presided as Vice President? A. I don't remember; I think Mr. Gompers did not preside at any meeting I attended, but I may be in error as to that.

Q. You have no recollection of that? A. I have no recollection.

Q. Do you recollect taking any part in the discussions? A. Yes, sir.

Q. And whether it was on the 17th or 18th? A. I don't remember.

Q. While you were in New York, did you learn of the action and decision of Mr. Justice Gould in the case of the Buck's Stove & Range Company against the American Federation of Labor? A. I do not recall the matter. I have no recollection at this time that I heard while in New York of the action of Justice Gould.

Q. Did you not see the evening papers of December 17th containing the announcement of the decision? A. I don't remember that I saw or heard of them at that time.

Q. Do you recall now whether you had any conference with Mr. Gompers at that time, as to the case? A. So far as my recollection is concerned, I had no conference with Mr. Gompers.

Q. At that time? A. At that time, upon the matter of the injunction.

Q. Do you recall what time of day you left New York for Indianapolis? A. No, I don't remember.

Q. Whether in the morning or in the afternoon? A. No, I don't remember.

Q. After you went to Indianapolis and had this illness, what time did you recover sufficiently to get out? A. I think it was about the 26th of December or 27th of December.

Q. And shortly after getting out, did you issue the call for the 19th Annual Convention? A. I did not issue it at all. I went immediately from where I was ill to Excelsior Springs, Missouri, and remained there for some weeks.

Q. You had been ill previously at La Salle, Illinois? A. Yes, sir.

Q. When did you return to Indianapolis before the convention was held? A. Will you indicate the date of the convention? (After a pause.) I returned the day or two before the opening of the convention.

Q. I notice that in Mr. Gompers' report to the Federation of Labor's Executive Council, that on the 22nd, in this report, you telegraphed under date of the 22nd, to your colleagues. A. From La Salle?

Q. Not from La Salle, from Indianapolis, because the convention was then in session. The following telegram was received. (Reading from minutes of the Executive Council meeting as appearing in the February 1908 number of the American Federationist:)

"INDIANAPOLIS, INDIANA, January 22, 1908.

Mr. Samuel Gompers, President, American Federation of Labor:

I thank you and members of E. C. for remembrance and good wishes. Am feeling pretty well and think I can get through Convention. Best wishes to all.

JOHN MITCHELL."

You were in Indianapolis on the 22nd? A. Yes, sir.

628 Q. My impression is the Convention assembled on the 21st?

A. The 21st of January—this was in December, that telegram was in December, was it not?

A. No, you could not attend the meeting of the Executive Council because you had your convention at that time. A. Oh, yes, I got back to Indianapolis, I believe, about two or three days before the opening of the convention, probably two days.

Q. By reference to the minutes of this 19th Annual Convention, under the heading, "Fifth Day, morning session," it is stated that the convention was called to order at 9 a. m., Saturday January 25th, President Mitchell in the Chair. Do you recollect that? A. I don't recall. I take it for granted that that is correct.

Q. They held two sessions that day, the fifth day; in the afternoon the convention was called to order at 1:30 p. m., Saturday January 25th, President Mitchell in the Chair. Do you recollect that? A. I don't remember it.

Q. Have you any doubt about its being correct? A. I have no doubt about it.

Q. In the record of the proceedings of the morning session of the fifth day, found in the second column of the 7th page of the Exhibit Petitioner No. 2, appears the following:

629

"Resolution No. 73.

"Whereas the Buck's Stove & Range Company of St. Louis Mo., have taken legal steps to prevent organized labor in general, and the officers and Executive Council of the A. F. of L. in particular, from advertising the above-named firm as being on the "unfair list" or the "We-don't-Patronize" list and,

Whereas, by the issue of such an injunction or restraining order as prayed for by above-named firm, organized labor will be deprived of one of its most effective weapons, and, whereas, J. W. Van Cleave, President of the Above-named firm, also President of the National Manufacturers' Association, stated that in a few years' time he would disrupt organized labor.

"Therefore be it Resolved, that the United Mine Workers of America in 19th Annual Convention assembled place the Buck stoves and ranges on the unfair list, and any member of the United Mine Workers of America purchasing a stove of the above make be fined five dollars, and failing to pay same shall be expelled from the organization.

HARVEY STROUD,
FRANK SCHAEFER.

Endorsed by Local Union 755, Staunton, Illinois."

The Committee recommended the concurrence in the resolution.

I might say that in the column preceeding that, it appears,
630 "Report of Committee on Resolutions. Delegate Ryan,
(W. D.), Secretary of the Committee on Resolutions, re-
ported as follows:

Then it goes on:

"On motion of Delegate Walker, J. H., the recommendation of the Committee was concurred in, the vote being unanimous."

Have you any doubt that that is a correct statement of what took place that day? A. I believe that is a correct record of the proceedings.

Q. Are you acquainted with Staunton, Illinois, have you ever been there? A. I believe I was there a great many years ago.

Q. You are not personally familiar with the place? A. No, I am not.

Q. It is a place that has played a great figure in the testimony taken in the main case here; it is a place where Alonzo Miller, who was one of the parties alleged to have been boycotted, had his place of business; but you have no acquaintance with the place, or not sufficient to say whether or not that is so? A. I have not, and I have not read the record about it. I am not familiar at all with the record to which you refer.

Q. You mean the record of the testimony? A. Yes, sir.

Q. Have you any independent recollection about the trans-
631 action at all A. I cannot recall anything of the introduc-
tion of or passing of the resolution. By referring to the
transcript of the record I see I was in the Chair when the resolution
was adopted.

Q. But you have no independent recollection in regard to it? A. I have not.

Q. What was the mode of procedure pursued by you in a matter of that kind, when the Committee recommended concurrence in the resolution. This says that the recommendation of the Committee was concurred in, the vote being unanimous. A. The proceeding was simply the ordinary practice of the chairman. A statement was made that the motion was received, that the report of the Committee be concurred in, and remarks were called for. If there were none, the motion was placed before the convention and declared carried, or lost, as the case might be.

Q. And how was the fact that the vote was unanimous ascertained, was it declared by the Chair? A. Frequently, if there is no objections, the motion is declared adopted. At other times the actual vote is taken. A call is made for those in favor of the motion to say "aye" and those opposed to say "nay." I do not recall in this instance, as I have no recollection of it, whether that was declared to be carried in the absence of opposition or whether an actual vote was taken on it. I might say here that it is probable that in that instance there was no vote taken upon the subject

632 Q. Shortly before this action appears to have been taken
by the report of the proceedings, the heading here, "Report
of Committee on Resolutions," this appears, "Delegate Ryan, W. D.
reported as follows: Resolution No. 37."

Then follows the resolution:

"The Committee recommended concurrence in the resolution.

"On motion of Delegate Green, John, the report of the Committee was concurred in."

"Delegate SMITH: I move that when the Committee concurs in a resolution and there is no objection to its adoption the Chair be authorized to announce that it is adopted."

"Seconded but not carried."

Then the Committee recommended that Resolution 36 be referred to the Committee on Scale.

"On motion the recommendation of the Committee was concurred in."

Then follow other resolutions, and then this:

"Resolution No. 20.

SECTION 1. Delegate Holt moved that the recommendation of the Committee be not concurred in.

"President MITCHELL: The motion is not in order. A motion to non-concur in the report of a Committee cannot be entertained. A negative motion is not in order. The effect of defeating a motion to concur is the same as passing a motion to non-concur.

"On motion of Delegate Ryan the recommendation of the Committee was concurred in.

"Resolution No. 71.

633 The Committee recommended concurrence in the resolution on motion of Delegate McGrath, District 25.

"The recommendation of the Committee was concurred in, the vote being unanimous.

"The committee recommended that resolution 72 be referred to the Committee on Scale.

"On motion of Delegate Vickers, the motion was concurred in."

Then follows Resolution No. 73.

Have you examined the stenographic report of the proceedings to see just what was done? A. I have not.

Q. What was done at that time? A. I have not.

Q. What did you say was probably the course pursued? A. That there being no opposition to a resolution, the Chair would declare it carried.

Q. In what way would he ascertain whether there was opposition to it or not? A. By asking if there were remarks on the motion to adopt the resolution. In the absence of any remarks in opposition to it, it would be taken for granted that there were none and the Chair would declare the motion carried.

Q. Would the resolution be read? A. Yes, sir.

Q. Have you any doubt that it was read? A. No doubt at all.

Q. And in your presence? A. I have no doubt of it.

634 Q. And you heard it read? A. I don't remember.

Q. I say that you have no doubt you did? A. I have no doubt.

Q. And having heard it read, you laid it before the convention? A. I take it for granted that that was the proceeding.

Q. And declared it carried? A. I presume so, though, as I said, it may have been voted upon.

Q. Now, Mr. Mitchell, what became of that resolution after the action was thus taken by the convention? A. I don't know.

Q. Was it recorded, would it be recorded in your proceedings? A. It would be.

Q. I presume in so large an organization as you have, that in order to keep intelligent track of the convention, it is necessary to keep these things in some book of record, is it not? A. I think not, except these printed proceedings, and the stenographic report.

Q. But you do not have any formal book of entry of these resolutions? I notice in one part of this exhibit that these resolutions are all collated and grouped. Now, a word about that. What was your rule as to the reception of the resolutions; are they read

635 when they are offered? A. No.

Q. They are automatically sent to the Committee on Distribution? A. The practice is to hand the resolutions to the International Secretary or to the Committee on Distribution, who has been appointed previously, and by them assigned to the various committees. For instance, some resolutions are sent to the committee on Resolutions and others to the Committee on Scale and Grievance, and so on. They are not brought to the attention of the Convention until they come back from the committee to whom they have been assigned.

Q. And who was the International Secretary at that time? A. Mr. W. B. Wilson.

Q. And it is his business to hand them to the Committee on Distribution? A. Those that are handed to him, yes; they may be handed directly to the Committee on Distributions, but the practice usually is to hand them to the Secretary.

Q. Is that a standing committee? A. It is a committee provided for by the Constitution of the organization and appointed at each convention.

Q. That action is all taken outside of the Convention itself, and the first the matter comes before the Convention is upon the report of the Committee having the matter in charge, having been assigned to it by the Committee on Distribution? A. Yes, sir.

636 Q. They do not have resolutions introduced in the Convention directly? A. Some few are, where unanimous consent is secured.

Q. Not otherwise? A. Not otherwise.

Q. There are certain coincidences of date in regard to this matter that I want to direct to your attention. This is on Saturday January 25, 1908, as it appears, being the 5th day of the Convention, in the morning. What paper do you usually read in Indianapolis? A. Usually all the daily papers.

Q. The Indianapolis News? A. Yes.

Q. Is it an afternoon paper? A. Noon and afternoon.

Q. Do you recall seeing in the Indianapolis News of that date under the heading, "Gompers defies injunction" a dispatch printed, sent out by the Associated Press, as to the attitude that Mr. Gompers had assumed and would assume, in disregard of the injunction? A. I don't remember of having read any such announcement or article.

Q. How large was this convention in number? A. From 800 to 1300 delegates attend our annual conventions; from 750 to 800, probably at this one.

Q. This was held in Tomlinson's Hall? A. Yes, sir.

Q. And was it attended generally by delegates each day?
637 A. Yes, sir.

Q. Those not engaged in committee work? A. I should say so. Of course we have no roll call.

Q. For the information and convenience of the delegates, are not the daily proceedings printed? A. Excerpts are printed each day.

Q. And distributed? A. Yes, sir.

Q. To all delegates? A. Yes, sir.

Q. Containing the account of the proceedings of the day before, the resolutions offered and so on? A. Their distribution does not take place usually the following day, it is often two and sometimes as much as three days after the day on which the action is taken by the convention before the proceedings are distributed.

Q. This was on Saturday, this action was taken Saturday morning. Are those printed copies preserved? A. I don't know.

Q. Who distributes them? A. A committee appointed in the convention.

Q. Do you know who were on the committee this year? A. I don't, I can't remember.

Q. How will I ascertain that? A. From the stenographic report.

Q. Could I ascertain it from the International Secretary?
638 A. I don't know who has the proceedings, but likely you can.

Q. Do you know whether there is a bound copy made up, of these printed proceedings, other than these minutes, which are published in the United Mine Workers Journal, which is stated to be the official journal of the United Mine Workers? A. There is an annual report, a printed report of the proceedings of the convention.

Q. Containing what? A. The proceedings of the convention.

Q. In the form in which they appear in the Journal or more *in extenso*? A. I think a more complete report. I take it that those proceedings in the Journal are the excerpts that are taken from the daily minutes.

Q. Then you think these were the excerpts that were distributed daily to the members? A. I believe so, although I have nothing at all to do with that matter. That was entirely out of my province.

Q. I don't know that you were a delegate, but you were *ex officio* a member of the convention, I suppose? A. I think I was a delegate; I am not sure.

Q. Did you receive those from day to day? A. No, sir.

Q. How was it that you were overlooked—because you were Presi-

dent and presiding and knew what was going on yourself, and did not need to have a copy of those proceedings? Why is it
639 you think you did not have them? A. I don't understand the question, or I did not understand it. I presumed you asked me if these daily minutes were delivered to me——

Q. Oh, no—— A. I don't remember whether I was furnished with copies from the distributing committee or not.

Q. Or whether you read them? A. Oh, I am quite sure I would not read them.

Q. Why not? A. Well, during a convention the Chairman, the president of an organization, is a very busy man, and he hardly would have time to read the minutes or the papers.

Q. It appears by the Indianapolis paper that the morning session of that particular morning only lasted an hour, and there would be a very short record. But the question is now whether or not, first, you have any recollection of having read this report. A. I have no recollection of it.

Q. And I will inquire whether or not you think it is probable you had such a copy furnished you or whether such a copy was accessible to you? A. I have no way of fixing that in my memory at all. It is an incident that would not fix itself in my mind at all.

Q. The convention having passed this resolution, how would its contents be communicated to the various local unions, according to the usual course? A. It might be communicated to them
640 through the proceedings of the Convention.

Q. How is that, are they forwarded to each local, are they furnished to each local? A. (After examination of the Constitution:) I have no knowledge of my own as to whether or not these proceedings are sent to our local unions. I take it for granted that the National Secretary-Treasurer transmits them to the local unions.

Q. The incoming Secretary or the outgoing Secretary? A. I don't know.

Q. You cannot tell? A. I cannot tell.

Q. Are these proceedings published in pamphlet form? A. In book form.

Q. And are they retained, any of them, in the office of the Secretary—or who does keep them? A. The Secretary is custodian of all property of the organization.

Q. Do you know of your own knowledge what publicity was given to the vote in the lodge rooms or meeting rooms of the local unions? A. I don't know.

Q. I have had certain information in regard to it. I did not know but perhaps I could ascertain from you directly about that. A. I have no information on the subject at all, none at all.

Q. Well, in pursuance of that vote, then communicated to
641 the member, the condition of his retaining membership would be that he observe the resolution: is not that so? A. The resolution so provides.

Q. And that resolution was in accordance with your Constitution and By-laws, was it not? A. I don't know of any section of our Constitution relating to the subject at all.

Q. That either provides for it or prohibits it? A. There is nothing at all in the Constitution about it.

Q. There is nothing about it? A. Nothing that I can remember.

Q. Besides whatever official relation you may bear to the United Mine Workers' Journal, were you a subscriber to it or a reader of it?

A. I was not a subscriber to it.

Q. Did you receive it? A. Yes, sir.

Q. And read it? A. Usually.

Q. I suppose before you signed your return to the rule you carefully read it? A. I read it as carefully as the circumstances would permit. I was about to leave my home in Illinois when I received it, and had to go to a Notary and make my return in order to mail it before leaving.

Q. But you do not verify papers of that character without
642 carefully reading them and considering them, do you? A. I have answered the question, I think.

Q. Let us see how definitely you wish to be understood as having read the return—— A. It probably conveys a wrong impression. It conveys the impression that I denied being Chairman of the Convention. If that is so, I did not have that in mind in preparing it.

Q. Oh, I don't think it so appears. A. Well, that is all right.

Q. I think this is carefully drawn. (Reading from return of John Mitchell, paragraph 18:)

"He admits that on January 25, 1908 he was in the Chair as presiding officer of the 19th annual convention of the United Mine Workers of America."

This was prepared and sent to you for your verification? A. Yes, sir.

Q. And by whom was it prepared—by your attorneys? A. Yes, sir.

Q. And was it prepared after consultation with you? A. Yes, sir.

Q. And the information contained in it was conveyed by you to them, and they, of course, did the drafting in the ordinary way between counsel and client? A. Yes, sir.

Q. My attention was struck by the following, in reference
643 to Petitioner's Exhibit No. 3.

(Reading further from paragraph 18 of the return referred to:)

"That he had nothing to do with the publication of the extracts referred to from the United Mine Workers' Journal of January 9, 1908, and his first knowledge with relation thereto was obtained after said publication was had; that he did not authorize or sanction the publication in any way."

When was that first knowledge obtained? A. The first definite impression I have of it being published was the Journal of these proceedings, the allegation that it was,——

Q. What have you in mind now, the resolution—— A. Adopted by the convention.

Q. I have reference to the other matter.

Mr. RALSTON: What other matter?

Mr. DAVENPORT: The publications in the United Mine Workers' Journal of January 9, 1908.

The WITNESS: What other matter? I don't know what matter you refer to.

Mr. DAVENPORT: In the United Mine Workers' Journal of January 9, on the front page, appears this peculiar way of advertising the boycott.

(Reading from Exhibit Petitioner No. 3:)

(Unlawful Boycott)——

The WITNESS: I did not know you had made any reference to that matter.

644 By Mr. DAVENPORT:

Q. Well, then, did you swear to this answer without knowing its contents, without understanding its contents? A. I understand that the answer has reference to the publication of the proceedings of our convention.

Q. This is the allegation in the petition that I want to inquire about: (Reading from petition paragraph 18)

"That the said John Mitchell also caused or permitted the following to be published on the front page of the issue of the said United Mine Workers' Journal of the 9th day of January A. D. 1908, as will be seen by reference to a copy of said issue herewith filed, marked Exhibit Petitioner No. 3, and prayed to be taken and read as a part of this petition."

"Unlawful Boycott.

"Our readers should govern themselves accordingly and allow all to live unmolested.

"Here is something clever and cute from the Galesburg Labor News:

"Whether or not the Manufacturers' Association, who were behind the Buck Stove and Range Company in instigating the suit, will accomplish their desired results is difficult to say. Trades unionists will fail to see wherein they will. For no power on earth can compel a man to buy something he does not want and an announcement something on this order is enough to indicate to a union man what not to buy:

645 It is unlawful for the American Federation of Labor to

BOYCOTT BUCK STOVES AND RANGES.

Justice Gould in the Equity Court of the District of Columbia on December 17th, handed down a decision granting the company a temporary injunction preventing the Federation from publishing this firm as

UNFAIR TO ORGANIZED LABOR.

"The above could hardly be construed to conflict with the law since it is a statement of facts."

"A funny thing about this case is that the boycott has been on this firm for more than a year. Now, the unions have their attention directed to it for fair."

Now, this petition proceeds as follows:

"And the peculiar arrangement of type in the said article, whereby particular display is given to the words 'BOYCOTT BUCK STOVES AND RANGES,' and 'UNFAIR TO ORGANIZED LABOR,' without making these direct statements in the context of the article published, was devised and designed for the express purpose of violating the injunction of this court, whereby the publication of these statements is forbidden, and of causing the said publication to be reprinted and distributed and scattered broadcast throughout the land."

Then follows an allegation that this was taken up by the
646 labor press, as it was intended to be, throughout the country, and giving special instances. My attention was struck by the peculiar way in which this answer or return to the rule was drawn—"That he had nothing to do with the publication of the extracts referred to, from the United Mine Workers' Journal, of January 9, 1908, and his first knowledge with relation thereto was obtained after said publication was had; that he did not authorize or sanction the publication in any way."

Now the question is when you first had knowledge? A. Not until the allegation was made in the charge by yourself. May I explain?

Q. Yes. A. At the time this issue was published I was ill at Excelsior Springs, Mo., and when I was able I had to prepare my report for the convention, so that this issue of the Journal might have escaped my attention, or if it came to my attention I might not have read it.

Q. What was the date of your return from Excelsior Springs? A. Only a day or two preceding the opening of our convention.

Q. That would be, then, about the latter part of January, a day or two before the beginning of the Convention? A. Yes, sir, a day or two only. I think I was in Excelsior Springs more than two weeks.

I went there about the 26th of December.

647 Q. Mr. Mitchell, I asked you a while ago, how many local unions were in Illinois, Indiana and Ohio, and I think you gave approximately the number? A. Yes, I did.

Q. Can you tell us approximately how much is the individual membership of these locals? A. In Illinois there are approximately sixty thousand members; in Ohio approximately thirty-eight thousand members; and in Indiana approximately fifteen thousand.

Q. What loss or injury would an individual member of one of the unions suffer if he was expelled from membership? Do they have some interest in the funds? A. Yes; I do not know what the loss would be if he were expelled. It would be so small as not to be important at all.

Q. So far as he was individually concerned? A. It would be unimportant. The property of the organization is—

Q. (Interrupting.) So far as the privileges are concerned, what privileges would he forfeit? A. Simply membership.

Q. Well, in losing his membership, what privileges would he lose? A. Only his right to participate in the government of the organization.

Q. That is all? A. That is all.

Q. Now, I believe that you have retired from active participation in the management of the affairs of the organization, have you not? A. Yes, sir.

Q. From your familiarity with its structure and mode of operation and so forth, can you state what means can be taken to nullify this action of the convention, other than a calling together of the convention? Have the executive officers the power to set aside, if they see fit, the action of the convention in passing a resolution that is found to be inexpedient? A. The officers have no power to repeal a resolution adopted by the convention, but if the resolution imposed a penalty upon a member of the organization, the officers might refuse to enforce the penalty.

Q. The reason I ask is that it may become important in the future development of this case. My information is that individual members of the unions express themselves as unwilling to incur this penalty for fear of the consequences, and what I wanted to find out from you is if you know any way by which the action of this body to which your attention has been called could be set aside or nullified. A. I do not know of any way in which it could be done, except as I have suggested.

Q. Do you know A. B. Grout, of Cincinnati? A. No; I do not.

Q. The President of the Metal Polishers' International Union? A. No; I do not know him.

Q. In the report that he makes in one of the numbers of the Journal of the Polishers, he states that an arrangement was made between the officers of his organization and the officers of the United Mine Workers at Indianapolis, by which the boycott circulars that were issued were shipped to headquarters at Indianapolis, and that the envelopes which were addressed containing those circulars were sent out to the different members of the Mine Workers' Locals, and that is stated to have occurred during the time while you were president of the organization. Now, do you know anything about that, personally? A. I have no knowledge of it at all.

Q. If that is true, of your knowledge of the operation of the organization at headquarters, who would be the person who would have charge of that, and who would know about it? A. The actual work of sending out circulars of any kind would be under the supervision of the International Secretary-Treasurer. However, no such circular could go out without the consent of the president, if our law was complied with.

Q. You have no recollection about it, have you? A. None at all. It never occurred during my presidency, so far as I can remember.

Q. So far as you can remember? A. Yes.

Q. But if it did occur, it must have been done with your approval? A. No. If it occurred at all, it has been done without my approval—if it has occurred.

Q. If it has occurred, are the probabilities that it was done in that way? The boycott originated about October, 1906, by the

650 action of the Metal Polishers' International Union, or to that extent and this was subsequent to that date and prior, I think, to a year ago, certainly. A. Well, I have no recollection at all about it.

Q. Could large quantities of these things be sent from the office and through the instrumentality of the office at Indianapolis without its coming to your knowledge? A. It could occur, yes sir.

Q. On account of absence from the office? A. Well, it could occur for that reason, and it could occur if my attention was not called to it, but that is not at all probable.

Q. You have no knowledge yourself at the present time, at any rate, of the dissemination of those circulars from the headquarters there at Indianapolis? A. None at all.

Mr. DAVENPORT: I believe that is all.

Cross-examination.

By Mr. RALSTON:

Q. Mr. Mitchell, were you in any degree responsible for the introduction of the resolution at the last convention of the United Mine Workers to which Mr. Davenport has alluded? A. No sir. I had no knowledge whatever of it being introduced.

Q. Did you recommend or suggest that it should be introduced? A. No sir.

651 Q. You knew nothing whatever about it? A. Nothing at all.

Q. Have you any control, yourself, over the United Mine Workers' Journal? A. No sir.

Q. Do you dictate what shall go in, or shall not? A. No sir.

Q. Mr. Davenport's question was one that showed a thorough familiarity with your movements. Do you know how that was derived? A. I do not know positively; but for several years I have been constantly followed by detectives and of course I do not know in whose employ they were.

Q. Do you know of anybody other than the Manufacturers' Association or Mr. Van Cleave who would be interested in having you followed by detectives? A. Well, I do not know of any one else, and I do not know what interest they could have in the matter either; but I do not know of anyone who would have any interest at all.

Redirect examination.

By Mr. DAVENPORT:

Q. Now Mr. Mitchell, is it not possible that all the information that Mr. Davenport's question shows he possesses in regard to it is from perusal of the Indianapolis papers of the period that is covered by the time, and the New York papers and the American Federationist, which are all on file, or were yesterday, in the Congressional Library? What information was there that I seemed to be possessed
652 of, except so far as I might have divined these things from inferences from other things, that might not have come from those sources? You start in in the first place with the fact that

you were at one time in the hospital or ill at La Salle, as stated by yourself in the convention, the report of which was in the Indianapolis papers. The incidents connected with your illness, the date and when you were first taken, were all in the Indianapolis papers. What took place in New York was in the New York newspapers and in the Indianapolis papers.

Mr. RALSTON: Is that testimony?

Q. I say I have all this information. Now is there anything else, or any other knowledge that I seemed to be possessed of which could not have been derived in such a way as that? A. I think it is quite possible that all the information you seem to have now could have been secured from the newspapers. That is one way it could have been secured. You show a greater familiarity with my movements than I have myself, which would indicate you kept closer tracks on where I went and what I did than I did myself.

Q. I never had the slightest particular interest in your movements until this answer was put in, and the only information that I have of any kind was derived from the Indianapolis News—and the Indianapolis Star, is it? A. Yes, the News and the Star.

Q. And the New York three papers that I inquired about, and the United Mine Workers' Journal, which is on file up there also. I

653 have no information, either direct or indirect, from any other source except the statement that is published as to the facts about which I last inquired of you in the Journal of the Polishers' Union, which we have had occasion to study as we studied the development of this matter. Now, in regard to your having had no control over the Journal of the United Mine Workers during the period about which I have inquired of you, you say that the Executive Council or executive board, or board of management, or whatever it is called in that exhibit, has no control over it? Do they not publish it? A. No.

Q. Who appoints the editor? A. The president.

Q. The president of the organization? A. Yes.

Q. And you appointed him, did you not? A. Yes sir.

Q. Who pays the bills? A. The National Secretary-Treasurer.

Q. National Secretary-Treasurer of the organization, and a member of the Executive board? A. Yes sir.

Q. And who receives the proceeds of the sale? A. The National Secretary-treasurer.

Q. So that in those respects they have control over it? A. His control or his duties are as National Secretary-Treasurer, not as a member of the Executive Board. The fact that he is Secretary-Treasurer and a member of the Executive Board does not necessarily show any connection between the two. The constitution 654 provides the Journal shall be published, that the National Secretary-Treasurer shall be its business manager, that the editor shall conduct it in a certain way. The law defines what the duties of the editor are.

Q. What are the duties of the president? A. He has no duties in the premises.

Q. None whatever? A. None at all.

Q. Well, at least there is nothing obligatory upon the president that he shall not protest against or dissent from the action of the editor? A. He has no obligations in the matter at all.

Q. He is not prevented in any way, is he, from expressing his opposition? A. Not at all.

Q. Or his condemnation of the course? A. There is nothing in the law on the matter.

Q. Is the law to which you refer the constitution which you have referred to here, and which is Exhibit A. II. No. 5 in the case? A. Yes sir.

Recross-examination.

By Mr. RALSTON:

Q. What is the connection between Mr. J. W. Van Cleave and the Buck's Stove & Range Company, the plaintiff in this case? A. My information is that he is president of the Buck's Stove and Range Company.

Q. What connection is there between Mr. J. W. Van
655 Cleave and the Manufacturers' Association? A. My information is that Mr. Van Cleave is president of the National Manufacturers' Association.

Q. Is that the association which has announced its efforts to raise a million and a half dollars to fight the trade unions?

Mr. DAVENPORT: Now I must begin objecting. That is absolutely irrelevant, immaterial, impertinent and improper.

A. That is the organization that is reported by the daily press as having raised one million and a half dollars to destroy the labor organizations.

Redirect examination.

By Mr. DAVENPORT:

Q. I believe you have stated that you are not familiar with the record in this case? A. No sir; I have not read it at all.

Q. And you do not undertake to say what the facts are in regard to it? A. In regard to the record?

Q. In regard to this record you are inquired of? A. I stated that it had been reported in the daily press.

Q. But you have no information or knowledge of it, yourself, personally? A. None whatever, except—

Q. (Interrupting:) I will call your attention to the fact that the subject of this mythical million and a half War Fund is
656 fully established by the testimony in this case that no such fund existed, that it never was raised, and is non-existent, except in the heated imagination of excited labor unionists. However, that matter is fully covered by the testimony in the case which is made a part of the petition here by reference, and I do not think it is necessary to vex you, Mr. Mitchell, further in regard to it. I would in this connection direct the attention of the witness and the

counsel, and incidentally of the court, to the deposition of Mr. J. W. Van Cleave on file in this case, commencing on page 392 and continuing to page 435 of the original record, and on pages 232 to 254 inclusive of the printed transcript of record in the case pending in the Court of Appeals of the District of Columbia.

Mr. RALSTON: And I beg to call Mr. Davenport's attention to the fact that Mr. Van Cleave had sought to raise the money from railway organizations to carry on what he termed an educational campaign against these organizations and that he recommended in May, two years ago, to the membership of the National Association of Manufacturers that it raise a fund of half a million dollars a year for three years, as Mr. Van Cleave said, for educational purposes pure and simple. Mr. Mitchell, have you ever seen any evidences of education for which that money has been disbursed?

The WITNESS: No sir.

Mr. RALSTON: Have you seen evidences in other directions of its being disbursed in other directions?

A. Yes sir.

By Mr. DAVENPORT:

Q. Do I understand from you, Mr. Mitchell, that you
657 undertake to say that a dollar of any such fund was raised, or that it was expended for any other purpose than was stated by Mr. Van Cleave? A. I shall not undertake to say that any of the money was raised, because I do not know. I shall undertake to say that there is manifest evidence that money raised by the Manufacturers' Association was expended in an effort to do injury to the labor organizations and to those connected with them.

Q. Well, that is extremely general. However, I take it that you do not, of your own personal knowledge, undertake under oath here to support any statement that is inconsistent with the statement that is made by Mr. Van Cleave under oath in this case? A. I do not know what statement Mr. Van Cleave has made, so I cannot controvert it under oath.

Q. I assumed so. The matter is wholly covered by the testimony that was regularly introduced in this case under cross examination by your counsel and filed in the court, and which, after the testimony was all closed, rendered the permanent decree in this case, in regard to the violation of which you are now inquired of. Let me ask you just one further question. Did you give, or can you give the name or names of the person or persons who would do the actual dissemination of those circulars, if it was done? A. To which circulars do you refer?

Q. The boycott circulars that I have referred to. A. The circulars that you spoke of having been——

Q. (Interrupting.) As Mr. Grout having stated in re-
658 gard to them that they were sent out. Who would be the person?

Mr. RALSTON: Mr. Mitchell said he had never seen them.

By Mr. DAVENPORT:

Q. I asked who the person would be if it was done, who would have charge of that work there? A. Any circulars that would be sent to the office of the United Mine Workers of America would be sent out under the direction of the International Secretary-Treasurer.

Q. Not to the officers, but to the individual members of the locals? A. They would be mailed to the secretaries of the local unions by the office force at Indianapolis, if they were sent at all.

Q. Mr. Grout's statement is, as I recall it, that the circulars were sent in envelopes to the headquarters of the United Mine Workers by an arrangement with that office, as he said, and they were there directed and sent out to the individual members of the locals. Now, if it was done— A. (Interrupting.) That would be an impossibility. We do not have the addresses of our individual members. We kept no individual record in our office. We cannot mail anything to individual members.

Q. Then your idea is it would have to be mailed to the officers of the locals, and by them addressed and sent to the individual members? A. If it were done at all, that would be the only process by which it could be done.

Q. Now, if it were done in that way, who was the person 659 during that period who would have had charge of it or know of it? A. The National Secretary-Treasurer.

Q. Who was he? A. Mr. W. B. Wilson, at that time. I think this occurred in January, you say?

Q. No, I cannot tell the date. A. I cannot answer the question then. I do not know.

Q. But it was between October 1903 and, I think, October 1907. I cannot be more definite than that. If it was during that period, who would have been the man? A. I cannot answer. If it occurred at all, and did occur during a session of Congress, Mr. Wilson would not be there, and in that event some of the clerks in the office would do it. I do not know whose duty it would then become.

Q. So that you cannot direct my attention to the particular person at that time? A. No; I can not.

Mr. DAVENPORT: I believe that is all.

The EXAMINER: I understand Mr. Mitchell is a non-resident witness. Do you, Mr. Ralston and Mr. Davenport, waive the signing and reading by him of the deposition?

Mr. RALSTON: I will not waive it until I see it first and know that it is correct, or that it has to be corrected in any way.

Mr. DAVENPORT: I make the same statement in regard to that. If it has got to be corrected, I want to see about it.

(Witness excused.)

JOHN MITCHELL.

660 Subscribed and sworn to before me this 12th day of September, 1908.

ALBERT HARPER,
Examiner in Chancery.

Thereupon, an adjournment was taken until ten o'clock a. m., Thursday, September 17, 1908.

ALBERT HARPER, *Examiner.*

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WASHINGTON, D. C.,

THURSDAY, Sep. 17, 1908.

Met pursuant to adjournment, at the Headquarters of the American Federation of Labor, Typographical Hall, at 10 o'clock a. m.

Present in behalf of the plaintiff, Mr. Davenport.

Present in behalf of the defendants, Mr. Ralston.

Whereupon:

SAMUEL GOMPERS resumed the stand for further examination

By Mr. DAVENPORT:

Q. At the time you directed the sending out of the January 1908 number of the American Federationist, did you see to it yourself that they were sent out? A. Yes, sir.

Q. Did you keep close watch of it? A. No.

Q. It was a very large edition, was it not? A. I have so testified already.

Q. About ten thousand copies? A. Yes, sir, or more.

Q. Or more? A. Or more; not very many more.

Q. And did you see to it that this large edition was sent out before the injunction bond was undertaken and filed? A. I also testified in the affirmative as to that.

662 By Mr. RALSTON:

Q. Do you mean to convey the impression that there was any unusual number of that edition printed? A. No. The size of the edition varies from month to month. I am not sure whether that was a larger issue in January than the months preceding or not; there may have been a larger issue.

By Mr. DAVENPORT:

Q. Do you recall whether you gave orders to have an extra large edition published or distributed? A. I cannot recall.

Q. Well, Mr. Gompers, looking at this January number 1908, I see it contains of printed matter about 72 pages, exclusive of the cover, which would make 76 pages. I took the trouble to weigh it and I find that it weighs seven and one-half ounces. If that is correct, then the total edition that you distributed in that time would weigh about five thousand pounds, would it not? A. I have not calculated it at all.

Q. Do you recall the fact that you stated the other day definitely that the envelopes in which this edition was sent out had been prepared and addressed before the 21st? A. I said that that is the usual course, as are prepared already the envelopes for the forthcoming issue of the American Federationist; they are already addressed.

Q. To whom are they addressed? A. To Secretaries of
663 unions, organizers, subscribers, libraries, universities, colleges, schools, and so on.

Q. Were these envelopes you speak of having been previously addressed, addressed to such persons? A. Yes, sir.

Q. And how many organizers did you have at that time? A. I could not tell you.

Q. About 1200? A. Oh, perhaps approximately that number.

Q. And how many secretaries would there be—the international Union Secretary, I suppose? A. Yes, sir; and secretaries of central bodies, of state federations, directly affiliated local unions.

Q. About how many state federations were there? A. About 38.

Q. About how many city, central unions? A. About 700. I am giving you approximate figures.

Q. About how many local unions affiliated directly with the American Federation of Labor? A. Those which have no national unions of their own trade or calling?

Q. Yes. A. Oh, about—I cannot give you the figures from memory, but I can do so in a few moments.

Q. All right. A. (After referring to memorandum:) About 700 directly affiliated local unions having no national or international union of their own trade.

664 Q. Can you give us an idea about how many of those on the mailing list there were? A. I should prefer not to state. If you will tell me what you want to establish by your question I will answer you frankly and fully.

Q. Well, I want to establish the number that were addressed.

Mr. RALSTON: In point of fact, Mr. Gompers knows nothing about this; he has no charge over it at all. Your inquiry should be addressed to Mr. Morrison, who has charge of it.

By Mr. DAVENPORT:

Q. Can you state of your own knowledge, have you any knowledge about it? A. I have not. As I said, if you will just tell me what you want to establish actually by your question and by my answers, I shall frankly tell you, and fully tell you as best I can, and that applies not only to this question but to anything else in these proceedings.

Q. Of course that is very frank of you, but that is what seems to be expected of you in this examination. Now, then, this is the point—— A. I simply say that to obviate taking up more time than necessary in an apparent attempt to probe, what I would be very willing to say frankly.

Q. No; I have to come to you for this information. If you do not know it yourself, can you tell us who could give this in-
665 formation? A. I cannot tell you, sir. I am too busy with the general affairs of the American Federation of Labor to be able to give my attention to the details.

Q. Where were they sent, from this office? You had them sent somewhere? A. To the Post Office and to the Washington News Company. I think——

Q. Those that were addressed? A. Those that were addressed were sent to the Post Office. I did not see them taken to the Post

Office, I did not take them to the Post Office; but I assume that they were taken there.

Q. You assume that, but did you see to it that they were taken to the Post Office before the injunction became operative, before that date? A. No. I supposed they were. I expected them to be.

Q. Yes, but you anticipated also that there was a likelihood of the injunction becoming operative very soon, and your idea in this diligence, as I understand you, was to see that they were distributed before it already became operative? A. Yes, sir.

Q. Did you take any steps at that time to make sure that they were distributed before the order did become operative? A. None other than that I can recall than to notify the printer that I wanted the proceedings printed at as early a moment as was possible to have them printed and delivered here.

366 Q. They were delivered here, you say, on Saturday some time? A. They were delivered here; as to the time, I cannot say.

Q. You have already testified in regard to that. Now, what I want to know is, knowing that injunction might become operative at any time, whether you took any steps to see to it that this edition was mailed before the injunction became operative. You have testified that in the afternoon of Monday, about 3:20 o'clock, you learned from the office of Ralston & Siddons, over the telephone, that the bond had been filed, and that it was operative, and the next morning you received a written communication to the same effect. Now what I want to know is whether you took any steps to ascertain whether or not this large edition had been sent out in the interim, or whether any of them were still undelivered, and to stop their delivery to the Post Office. A. Will you please divide that question into three parts so that I may answer it.

Q. Well, you can answer it in your own way, then.

(The first part of the question above recorded was repeated by the stenographer as follows:)

"Now, what I want to know is whether you took any steps to ascertain whether or not this large edition had been sent out in the interim;"

A. It was my desire to have the January issue of the American Federationist sent out as soon as possible, and that desire was known by all the people of the American Federation of Labor who
367 come more nearly in direct communication with me in my work. That is a standing rule of the American Federation of Labor, that each issue be transmitted to parties who should receive it, as soon as possible after receipt from the printer. The only unusual thing connected with the matter that I can recall is—that would be unusual—that I gave the order of the printing of the January issue of the American Federationist to be gotten out as soon as possible, and if possible somewhat earlier than the 24th. I did not know when the undertaking would be made or if it were going to be made at all. There was some thought in my mind, whether justified by events or not I am not prepared to say, but there was a thought

in my mind that after the attorneys for the Buck's Stove & Range Company had obtained the express opinion of Justice Gould, that probably the Company would not make the undertaking, and would rest satisfied with that opinion.

Q. (Read by the Stenographer.) "Or whether — of them were still undelivered." A. There were none of them undelivered to the subscribers and to the secretaries and universities and so forth, to which I have referred.

By Mr. DAVENPORT:

Q. You mean by that, that there were none that had not yet been sent to the Post Office? A. Yes, sir.

Q. You ascertained that fact—— A. No, I did not ascertain that fact. I simply——

668 Q. Did you take any steps to ascertain it? A. No; I did not; but after the undertaking had been made and I had been so advised by my counsel, I addressed the employés of the office and called their attention to the fact that the injunction was now in operation, and that I would ask every one of them to abide by its provisions strictly and faithfully, and in the case of any matter that would come to them relative to anything that might involve the question of the terms of the injunction, that that should be referred to me.

Q. You learned this on the afternoon——that the bond had been filed at 3:20 in the afternoon? A. What afternoon?

Q. You stated it here in the testimony. A. Then it is so.

Q. As soon as you learned that fact did you do anything then to ascertain whether any of those which had been addressed had not yet been sent to the Post Office? A. I think not.

Q. Well, did you see any of them around the establishment? A. Any copies of the American Federationist?

Q. That hadn't been addressed? A. I did not.

Q. Did you look to see? A. I did not make any special effort to look to see; but I think I would have seen them if they had been around. It is possible that it was otherwise, but I do not think so.

669 Q. You do not think, then, that you took any steps at once to ascertain that whether these that were to be sent through the mails had yet been delivered? A. I say that if there had been any of them undelivered I should have seen them.

Q. At that time? A. At that time.

Q. Did you take any steps to ascertain whether they had yet been sent out by the employés of the Post Office through the mails? A. No. As a matter of fact, I think any such inquiry on my part would have been resented on the part of the Post Office authorities.

Q. Well, this was publishers' material and sent out at publishers' rates. Do you know whether or not they had been so forwarded by the Post Office officials? A. I only know the general rule, and that is that they are sent out.

Q. They are not sent out, are they, until the postage is paid? A. I said a moment ago that if you will give me the purpose——

Q. You can answer that. A. Well, I will answer you, if you will give me a chance. (Continuing:) And I would frankly tell you everything I could, without getting in an apparent position of probing me, if your idea is to show that the——

670 Q. I want to find out from you—— A. Mr. Examiner, may I be permitted to answer?

Q. You may answer. A. Do you want to show——

Q. What I want is an answer to my question.

Mr. RALSTON: Let him finish his answer, Mr. Davenport.

A. (Continuing:) If you want to show by your question that the receipt from the Post Office was made out later than the date that the injunction became operative, I will say that they may be true, yet, that being true, would not show that the Federationists were not mailed and paid for, postage paid for, prior to the receipts being made out, and days before.

By Mr. DAVENPORT:

Q. Are you at all familiar with the method by which the course of business was conducted by the Post Office Department and your own organization here; are you familiar at all with it? A. Quite unfamiliar except as I was familiar with the relations existing between the Federationist and the Post Office Department when the officers were at New York and Indianapolis.

Q. This is rambling, this does not come to the point. What I want to know, and you say you want to answer concisely to the point, is whether you took any steps whatever to ascertain whether those Federationists which had been addressed, and as you suppose, had been delivered to the Post Office could then be stopped from going through the mails. A. I did not. I was satisfied they had been mailed.

Q. The question is as to what you did. Did you take any steps of any kind after you learned the undertaking had been filed and that the injunction was operative, to stop the distribution of those which had been addressed, in the way that you speak of?

Mr. RALSTON: That has been answered several times.

A. I answered that I called the employés of the office together——

By Mr. DAVENPORT:

Q. At what time, on what date? A. Within a few minutes after being notified by Mr. Ralston.

Q. Then on the afternoon of the 23rd, a few minutes after 3:20 o'clock, you called the employés of the office together and you told them what? A. I think I have already testified to that.

Mr. RALSTON: You might gratify him over again. You have only testified to it three times.

A. (Continuing:) That an injunction had been issued by the Supreme Court of the District of Columbia in regard to the Buck's Stove & Range Company, and that the officers of the American Federation of Labor and their counsel and agents and co-conspira-

tors and all others were enjoined from, many things, and
672 that some of the things had already been published in the
newspapers of Washington, and the further things which
they were enjoined from doing were well known, or fairly well
known, and that I asked them to avoid doing anything that would
either directly or indirectly come in violation or seemingly in viola-
tion of the terms of the injunction, and that on any matter on which
they had any doubt they would bring it to me.

Q. Did you at that time inquire of them whether these had been
sent out? A. No; but I did say that if there were any requests for
sale or purchase of any copies of the American Federationist, that the
purchasers should be referred to me.

Q. Did you tell them that if any of those had not yet been deliv-
ered they must not deliver them? A. I did not, but it was con-
veyed in my general directions.

Q. In what way? A. Shall I tell you it all over again?

Q. The point is now,—and it is susceptible of a very concise and
short answer—whether you told them not to send out that edition,
any copies of that edition that had not yet been taken to the Post
Office. A. I did not in specific terms but it was conveyed—but first,
in the general, ordinary dispatch of business, the Federationists are
sent out to all persons entitled to receive the paper as speedily as
possible after receipt and I assumed that that was done, and
673 that it required no specific statement on my part, that it was
conveyed in the general request and warning which I made
and gave the employés.

Q. This was a very large edition of the Federationist, it would
appear. Do you wish to be understood as saying that usually the
Federationist is taken to the Post Office before the 24th? A. No.

Q. Is it not usually taken there shortly before the 1st? A. No.
That is, as any date from the 24th to the last of the month or the 1st
of the next month is short as compared to the other portions of the
month.

Q. Now, Mr. Gompers, in the American Federationist, under the
Constitution, the Secretary is obliged to insert a detailed statement of
all the expenditures during the month previous, is he not, and send
one copy of the Federationist to each affiliated union? I call your
attention to Section 3 of Article 7, under the heading of "Duties of
Secretary" in the constitution of the American Federation of Labor,
as it is appended to the original complaint in this action, Exhibit B.,
and is to be found on page 43 of the original record, and page 42
of the transcript:

"The Secretary shall submit to the Auditing Committee for their
inspection vouchers for all moneys expended; close all accounts of the
Federation on September 30th of each year, and all moneys received
or disbursed after such date shall not be reported in the general
balance account of the ensuing convention. He shall publish
674 a financial report monthly in the American Federationist,
and send one copy to each affiliated body, and such additional
number of copies as may be ordered and paid for by any organization
connected with the Federation."

You know, do you not, that that requirement is complied with by him? A. There are several requirements.

Q. All those requirements? A. I know that they are.

Q. Turning to the February number of the American Federationist, there appears a statement for the month of December 1907, showing receipts by days, and the expenses by days, and entered under the head of the 31st of December appears the following:

"Postage on American Federationists, Post Office Department, \$25.97"; and inasmuch as it is a cent a pound and, as I say, I find that this number of the American Federationist weighed $7\frac{1}{2}$ ounces, I conclude that there were sent out about 3,500 of this number through the mails. Do you think that is so? A. If your calculation is correct, I suppose it is so.

Q. Perhaps it would be well at this time that I should inquire of you as to certain other things that are proper to a correct understanding of this. How are the moneys of the American Federationist disbursed under the conditions of the Constitution? Let me first call your attention to the second section of the seventh article, 675 under the head, "Duties of the Secretary."

(Reading:)

"The Secretary shall keep all letters, documents, accounts etc. in such manner as the annual convention may direct. He shall receive and collect all moneys due to the convention"— A. Not due to—

Q. Due the convention. "And pay them to the Treasurer, taking his receipt therefor. Provided, however, that he may"— A. There is no "however" there.

Q. (Continuing:) What date is your constitution? I think you will find the constitution in here. (Referring to the report of the 19th Annual Convention.) A. The word "however" is not in the constitution. It is not material, but it is not there.

Q. (Continuing to read from Constitution:)

"Provided, that he may retain in his hands a sum not exceeding two thousand dollars for current expenses, which money shall be paid out only on the approval of the President."

Next I will call your attention to the Second Section of Article Eight, "Duties of Treasurer.", which reads as follows:

"The Treasurer shall pay through the Secretary all warrants regularly drawn on him, signed by the President and countersigned by the Secretary, as required by the Constitution, and none others."

Now, recurring to the statement of the Secretary contained in the February number, 1908, of the American Federationist, of 676 the receipts and expenditures for the month of December 1907, I direct your attention to two items, postage on American Federationists P. O. Department, \$25.97, under date of December 31, 1907; and the items, "Hauling American Federationists, J. W. Bernhardt, \$4.15."

J. W. Bernhardt is a book-keeper in the employ of the Federation, is he not? A. Yes, sir.

Q. Did you authorize the payment of those sums? A. I did.

Q. At that date? A. No. That is, I authorized the payment of the sums, whether before or after I cannot tell.

Q. By the Secretary, Mr. Morrison? A. Through the Secretary.

Q. There are a number of other items here, some of which appear to have been drawn not from the two thousand dollars in the hands of the Secretary for disbursement, but drawn on warrants, paid by the Treasurer. In this connection I will ask to have inserted that part of the financial statement December, 1907, furnished by Frank Morrison, Secretary, A. F. of L., and contained in the February number of the Federationist, 1908, at page 139, and I would ask you to examine this and see whether or not—

Mr. RALSTON: I would like to ask Mr. Davenport if it is his idea that the date when a bill is paid shows the date when services are rendered.

677 Mr. DAVENPORT: It does not, by any means; but we can reason from it if we have a mind to. What I want is the fact.

The WITNESS: What do you want me to identify?

By Mr. DAVENPORT:

Q. Can you tell by those, whether or not warrants were drawn that day which were signed by you under the provisions of the Constitution? A. I think not. I think they were signed some other time, not on the day. They seldom are signed on the day of the expenditure.

Q. Who retains those warrants after payment? A. They are retained in the office of the American Federation of Labor and in direct possession of the Secretary, under my general supervision and direction.

Q. Are they here now? A. I think they are. I want to say that I am under the impression that they are held for the inspection of the Auditors, if they should want to see them.

Q. Can you produce these warrants for these items? A. I don't know whether I can or that I ought to be required to produce them?

Q. Will you ascertain if you can and let me know? A. Whether I can?

Q. Yes. A. I prefer to give you an answer to that a little later. I will make a memo of it, so I will not forget it and you will not forget it either.

678 Q. Will you answer this: Will you produce them if you can? A. I don't know whether I shall be required to. If I am required to and I can, I will.

Q. Knowing the price paid per pound for publishers' material sent through the mail, can you, from the data furnished here in this statement arrive at any estimate of the number that were mailed during January, 1908? A. No, I cannot.

Q. I presume that you did not look into the details on that particular occasion, as to who did the hauling or the quantity hauled? A. I did not.

Q. Now I pass to the other portion of the issue of January 1908, what to your knowledge was done with the balance? A. I have a standing order that at least 200 copies of the American Federationist

of each issue shall be retained for the purposes of binding and permanency. There were but very few copies that remained in our office after the sending of them to the Post Office and to the news agency. Some copies were retained for immediate reference or for cutting up purposes and so forth.

Q. I do not want to lecture you, of course, but it would seem to me that you could answer my questions more specifically. I have called your attention to the portion that went through the mail, as you have heretofore detailed it. Now, as to the others. In the first place, I want to know in regard to those you sent to the news agencies, how many did you send to the news agencies as you understand it? A. I don't know, sir.

Q. Can you tell us approximately? A. I cannot.

Q. Do you know when they were delivered to the news agencies? A. I do not, other than that they were delivered before the undertaking had been made.

Q. And where were they delivered? A. I am not sure, but I think it was on 6th Street between Louisiana Avenue and C Street.

Q. The Washington News Company? A. Yes. I could not tell you certainly what the name of the company is but I think that is the agency.

Q. What steps did you take to see that they were delivered to that company before the injunction became operative? A. I took no steps. It was the usual, general practice of seeing that the American Federationist, that each issue was placed in the mails, and in the hands of the news agency as soon as possible after their receipt from the printer.

Q. Did you take any special steps to see that they got there before the 23rd? A. Only as I have already stated.

Q. Did you give any special directions in regard to it? A. No, sir.

Q. Did you take any steps after the injunction had become operative by the filing of the bond to stop the delivery to that company of the numbers of this issue that were to go to them? A. Of the January issue?

Q. Yes. A. There was no necessity. They had already been delivered there.

Q. I will repeat my question. Did you take any steps after the injunction had become operative by the filing of the bond to stop the delivery to that company of the numbers of this issue which were to go to them? A. I say there was no necessity. They had already been delivered to this agency before the bond was filed.

Q. Did you take any pains to ascertain whether that was a fact or not? A. I know it to be a fact as I know——

Q. Did you see them delivered? A. No, sir.

Q. How do you know it was a fact? A. If you had permitted me to finish my answer I should have answered.

Q. Oh, answer it fully. A. I say I knew it as well as I know anything in this world that has transpired but which I have not physically seen.

Q. You had not taken any special means to secure the delivery of those copies of that number to them before the injunction had been issued? A. I took no special steps of that kind. As I
681 have said, that was the general understanding, the general direction, that the Federationist was to be delivered to the mails and to the agencies, and to those entitled to receive them, as soon as it was physically possible to do so after their receipt from the printer; and inasmuch as there were special directions to the printer to have the January issue printed as soon as it was physically possible for them to deliver them, the general order, or general practice prevailed in sending them out promptly after their receipt.

Q. How do you know now that the general practice had been complied with? A. Well, I should have discharged any employees—

Q. If you had known of it? A. If I had known that that was not fully complied with.

Q. I will again repeat the question: Did you take any steps after you learned that the injunction had become operative, in anticipation of which you had taken this precaution of endeavoring to get them out before it did become operative, to ascertain whether or not they had been delivered, or did you leave it, resting on the assumption on your part that they had been so delivered? A. I was informed—by whom I cannot now recall—that the Federationists were all sent out. I frequently go to the office to ascertain the facts of the administration of the affairs, to which you refer—and I am
682 under the impression that I received the information through some of the employees, that the Federationists of January had all been sent through the mails, to the post office and to the news agency.

Q. Did you take any steps to ascertain whether or not the news company had disposed of the copies? A. I did not.

Q. Did you care anything about it? A. Is that relative to the question?

Q. It is very relative. You will find whether you cared whether they had been sent out by that company or not will be relevant. A. I did not ascertain, but I did care, yes, I did care.

Q. You did care whether or not. Why did you not take steps to ascertain, if you cared?

Mr. RALSTON: This is all under the general objection, of course.

Mr. DAVENPORT: You reserved every possible objection to the whole examination.

Mr. RALSTON: Yes, I think I have.

Mr. DAVENPORT: I endeavor to make the reservation as comprehensive as possible.

A. I had to care. In fact, I was very anxious that the news agencies should dispose of the copies, and had a care for the general extension of the circulation of the American Federationist.

By Mr. DAVENPORT:

Q. Before the injunction became operative, that is the question;

whether you cared whether those copies were disposed of by the news company, whether any of them were yet undisposed of
 683 by the news company. A. I did not ascertain that fact, and I made no effort to ascertain it.

Q. Well, did you care whether they had been or not?

Mr. RALSTON: What difference does that make?

Mr. DAVENPORT: It makes every difference in the world.

A. I was anxious that they should be sold.

By Mr. DAVENPORT:

Q. I understand that; but here was the injunction which had become fully operative in this time, and now what I want to know from you is whether you cared, after the injunction had become operative, whether there were any copies in the hands of that news agency undisposed of. A. I did not know, and I did not ascertain, and it did not occur to me to make any inquiry about it.

Q. Did you care whether they had or not? A. I tell you it was a matter upon which I had no information, and it did not occur to me. The only question as to "care," arose since you have asked me the question.

Q. How was the matter as to the number of the copies that the news company was to take settled? A. They usually——

Q. In this particular instance, I mean. A. They usually tell me over the telephone, and they did so in this instance.

Q. Did you call them up on the 'phone and ask them how many they wanted? A. They usually call me up.

Q. Did they call you up? A. I think so.

684 Q. Did you settle on the number? A. I think so.

Q. Can you tell us what it was? A. No sir.

Q. Can you tell us approximately? A. No sir.

Q. Did you have any conversation with them as to the importance of getting them before the injunction became operative? A. No sir.

Q. That was not mentioned to them in any way? A. No sir.

Q. You did not tell them that an injunction order had been signed? A. No sir.

Q. And that it might possibly soon become fully operative? A. That was a possibility, but I did not tell them.

Q. You did not tell them? A. No sir.

Q. Did you tell your employes about delivering them to them, anything about it? A. No sir.

Q. But you left them to take the usual course? A. Yes sir.

Q. And you supposed at the time that the usual course had been taken? A. Yes sir.

Q. Do you not know that according to the usual course
 685 in these matters between the Federation and the Washington News Company, copies were furnished right along as they had a demand for them? A. I do not know it, sir. If it was so, it was against my instructions.

Q. We are talking now about the usual course? A. Yes sir.

Q. You mean to say that you never gave instructions in any other

instance than this particular issue? A. Only when the injunction became operative.

Q. We are talking now about the usual course. You say you expected the usual course would be pursued, and you took no steps in regard to that other than this thing, that you have stated three or four times? A. Which other thing?

Q. That you had given them a general instruction of the character that you have described. A. Not to violate any of the terms of the injunction, and particularly not to sell or give a copy of the January issue of the American Federationist to anyone; and insofar as it was a departure from the usual course.

Q. And was this done on the afternoon of the 23rd? A. Yes sir.

Q. You swear to that? A. No sir, I affirm it.

Q. You say you cannot give us the number, although you agreed upon the amount. Before I leave the subject of the Washington News Company, your arrangement with the Washington
686 News Company was one of long standing, was it not? A.

Yes sir.

Q. And by the terms of that arrangement, any copies undisposed of by them would be returned to the Federationist, could they not? A. Yes sir.

Q. Did you take any steps to ascertain, after the injunction had been issued, whether or not any of those were so subject to return by the Company, to the Federationist? A. No, other than my information that there were not any returned of that issue.

Q. Did you have any understanding with them that they need not return any of them? A. No sir, no such understanding.

Q. You say you cannot tell what number went to the Washington News Company, even approximately, although you arranged for the number over the 'phone. Is that so?

Mr. RALSTON: He did not even say he arranged for the number over the 'phone.

Mr. DAVENPORT: Yes, he did.

Mr. RALSTON: He said he presumed he did, that they usually did that.

Mr. DAVENPORT: He said they called him up over the 'phone. Of course, it is in the record what he said.

A. I have no recollection of any particular number.

By Mr. DAVENPORT:

Q. Or approximately? A. Not approximately.

Q. To whom else was any of that issue sent? A. To what do you refer?

687 Q. Besides to the postoffice. We have considered that branch of this issue, and also those to the Washington News Company. To whom else were any of that issue sent? A. I have no recollection, other than what I have already told you.

Q. I will repeat. A. To the secretaries—

Q. That was through the mails, and that has been covered. A. I

have no recollection of sending a copy to others, than those I have already indicated.

Q. Then, we may sum it up this way: That these were sent either through the post office or were sent to the Washington News Company? A. Yes sir.

Q. And you assume that the whole issue was disposed of in that way? A. With the exception of those copies to which I have already testified.

Q. And you say that you know that there were in the office, on the afternoon of the 23rd, the day the injunction became operative, only those you had so retained? A. Yes sir.

Q. I will ask you whether or not a large quantity of this issue was not sent elsewhere. A. There was not.

Q. Then, assuming that the issue was of about ten thousand, as you say, and assuming that about 5500 went to the post office, and a few hundred copies were retained in your office, the balance, 688 about four thousand, went to the Washington News Company? A. I cannot say as to that, sir; but I ought to have included in giving the people to whom the Federationist is sent, the advertisers, two or three copies to each advertiser; also the secretaries of labor organizations and libraries in many parts of Europe and Australia.

Q. Those went out through the mail? A. They would not be included in the pound rate. Also those to whom copies are sent in the District of Columbia, they are not included in the pound rates. Those to which I now refer would be sent under foreign postage and the local postage rates. That is, the pound rate is not accorded to the publishers in the city of publication.

Q. How many of that class? A. I could not tell you, sir.

Q. Approximately. A. I could not tell you sir.

Q. Is it many, or few? A. Quite a number.

Q. Did those going to your advertisers, go at the pound rate? A. No sir.

Q. You cannot tell how many there were of those? A. No sir.

Q. Can you tell me how I can ascertain that? A. I think I can ascertain and let you know.

689 Q. Will you do so? A. I will. That is, to the advertisers?

Q. Yes, and the others, generally. A. Which others?

Q. I want to know what disposition was made of this issue. I want to know, as near as I can, when they were disposed of. A. I have already testified to that. I have already answered that question at various times.

Q. You mean at various times during this examination? A. Yes sir.

Q. Now, will you kindly furnish me with a statement as to whom these numbers were sent, in the manner last explained by you, not under the pound rate through the post office, but through the post office in the District of Columbia or the individuals outside? A. Outside of the United States?

Q. Those that are covered by the exception that you are now making. A. If I can, and if I am required to, I will.

Q. Well, of course if you can, you will let me know, will you? A. I will try.

Q. Did you have a mailing list of these? A. Yes, and they are changed very frequently.

Mr. RALSTON: I would like to inquire at this point if it is Mr. Davenport's desire either, on the one hand, to learn the exact circulation of the American Federationist,—as to which I think he is not entitled to information—or, on the other hand, to know whether there were any extra copies of any kind or any extra steps taken to circulate this particular number for any reason.

Mr. DAVENPORT: What I want to know, Mr. Ralston, is what disposition was made of these ten thousand copies of this January number, 1908, which I am entitled to know, and it is important that the court should know. Now, it is not for the purpose of ascertaining the exact or approximate circulation of the Federationist, although there is an aspect of the case under which, under the answer, that would be pertinent; but it must be manifest to the witness and to counsel and to the Examiner, that what I am seeking to drag from the witness are the facts, about the distribution of the several copies of this edition.

Mr. RALSTON: I want to call attention to the fact that the witness had not charge of the circulation department. Mr. Morrison had charge of that.

Mr. DAVENPORT: I understand that is admitted by the pleadings.

Mr. RALSTON: He may not be exact, and probably is not, in the number of copies printed; but instead of dragging from the witness anything, the witness has four or five or six times answered as to what was done with particular copies.

By Mr. DAVENPORT:

Q. Having been favored with this episode, I return to the inquiry whether or not you have a list of the persons to whom these were sent. A. There were various lists from which we get the addresses and they are added to and dropped from time to time. It may be one edition we may send to the European secretaries and libraries, and another issue we may only send to a portion of Europe.

Q. Well, is there any list preserved of those that were sent out of this edition? A. No sir.

Q. Are you able, in any such way, to inform the court as to the disposition which was made of the several copies of this ten thousand edition? A. In no other way than I have already testified.

Q. Did you take any special steps to prevent the sending out of these copies after the injunction order was signed and had become operative? A. They had already been put in the mails when the injunction became operative.

Q. That is not exactly a direct answer. A. And I also gave the instructions to the employés, as I have already testified.

Q. Did you give any special instructions not to send through the mails to persons in the District of Columbia, or to the advertisers

or to foreign subscribers or foreign addressees, any copies, after the injunction had become operative? A. The copies had already been put in the mails, before the injunction became operative——

Q. How do you know they had been? You have already stated you did not know of your own knowledge. A. I have already told you that if they had not been I would have seen them, and the fact that I had already given instructions to the employés, and the
692 general instructions and practice, I know, as well as I can know anything that I do not see, that those copies had already been put in the mails, before the injunction became operative.

Q. Mr. Stenographer, will you repeat my question.

The stenographer repeated the question repeated above, as follows:

"Did you give any special instructions not to send through the mails to persons in the District of Columbia, or to the advertisers, or to foreign subscribers or foreign addressees, any copies, after the injunction had become operative?"

A. Do you want me to repeat my answer?

Q. I want to know whether you gave any special instructions. A. None other than what I have already stated. They were definite.

Q. Now, Mr. Gompers, was it your purpose in sending out that issue to all these persons after the injunction order was signed and, as you say, before it became operative; was it to anticipate the operation of the decree or order, which would otherwise have prevented you from sending them?

Mr. RALSTON: That has been answered about four times.

Mr. DAVENPORT: Your way?

Mr. RALSTON: The record shows.

A. I was not sure whether Mr. Van Cleave would make the undertaking, file the bond; and therefore I was not sure that the injunction would become operative; but in any event, I wanted to issue the January number of the American Federationist, just as it had been issued, prior to January 23.

693 Q. With the name of the Buck's Stove and Range Company on the unfair list? A. Yes sir.

Q. And was not your motive in so putting it out thus hurriedly, an apprehension on your part that the injunction bond would be made, and that the injunction would become operative before you got them out? A. It seems to me that you want to establish by your own witness something that you want to prove, contrary——

Q. You are speaking of yourself as my witness? A. Undoubtedly.

Q. Why, Mr. Gompers, you came in here and asked the court to believe that you had purged away your contempt by your answer. You put in a sworn answer, and you made yourself your own witness in your own behalf, and the idea that I am seeking by my witness to establish the truth—— A. No, not the truth, it is not a question of truth.

Q. Well, the facts, then. A. Or the facts either.

Q. Do you not understand that I — endeavoring to ascertain the facts by this protracted investigation—— A. I know it is protracted.

Q. I understand it is protracted, but the question is whether you do not understand that my purpose is to establish the facts in regard to this extraordinary——

Mr. RALSTON: I confess I am at a loss to know the purpose of this protracted investigation.

Mr. DAVENPORT: I admit that counsel on the other side is totally at a loss to understand it. I admit that the counsel on the
694 other side has not the remotest conception of what this is about or what is going to be accomplished. He is all up in the air about it, and does not see the bearing of it, I admit all that. Now the question is whether or not—let the stenographer repeat the question.

The stenographer repeated the question as follows:

“Q. And was it not your motive in so putting it out thus hurriedly, an apprehension on your part that the injunction bond would be made, and that the injunction would become operative before you got them out?”

A. As to my motive, I do not know that I had any particular motive. I know that there was no injunction in existence operating to prevent me from so doing.

Q. What was the occasion of the hurry? A. I wanted to get it out before the injunction became operative.

Q. Why? A. That is a matter which I think I ought not to be called upon to answer.

Q. I think you are called upon to answer. A. You and I differ.

Q. I ask you to state to the court what was the motive in getting out this edition and getting the edition into circulation before the injunction became operative. A. So that the name of the Buck's Stove and Range Company, the statement of fact published in the American Federationist under the caption, “We-Don't-Patronize” might be continued to be published without interference or inter-
ruption.

695 Q. By whom? A. By anyone.

Q. By the Court? A. By anyone.

Q. By the Court? A. By anyone.

Q. Will you answer the question, directly, by the court? A. That includes everyone. My answer is definite, specific, everyone.

Q. I ask you whether or not you mean by that, the court, interruption by the court? The court was the only one that could interrupt you, was it not? A. No.

Q. Why? A. The Buck's Stove and Range Company could do that.

Q. How? A. By filing the bond. It did not depend upon any action of the court; it depended upon the action of the Buck's Stove and Range Company.

Q. Is that your answer to that question, whether you did not want to get that out and your purpose in getting it out was not to get it before the action of the court could stop you, as you supposed? A. The action of the Buck's Stove and Range Company in filing the bond—I don't know whether it would. I have already stated that I

and some doubt whether the Buck's Stove and Range Company could file the bond.

Q. I will ask you something about that. Do you wish to be understood by the Court that you had doubt in your mind as to whether or not the Buck's Stove and Range Company could file the bond? A. I had some doubts of it.

Q. And would that be a reason, if you had that doubt, for hurrying up the issue? A. Yes sir.

Q. Why? A. If they filed the bond, then the January issue could have been out. If they did not file the bond, no change of the situation would have transpired.

Q. What was the occasion of the hurry? That is the point? What were you hurrying this up for? A. I think I have answered you.

Q. Well, have you answered it as fully as you can? A. Yes sir.

Q. Do you recall the occasion when the original subpoena was served upon yourself and your colleagues, in the suit of the Buck's Stove and Range Company against yourself and the other defendants? A. I remember the subpoena having been served, or the notice—

Q. The subpoena is what it is called technically. A. That the subpoena was served upon me. I only know as to my colleagues from the information given to me, that they were served.

Q. Do you remember the occasion of the service of the subpoena on you? A. Yes sir.

Q. Do you remember the date? A. No sir; it was some time last summer.

Q. Were you served on the evening of August 19, 1907, or on the morning of the 20th of August, 1907? A. I was served in the morning, but I do not recall the date.

Q. At that time were all the individual defendants, the Executive Council of the American Federation of Labor, here in Washington? A. I do not know, but I do not think they were all here.

Q. Who do you think was absent? A. I do not know, but I could ascertain and let you know in a few moments, if you want to know it now.

Q. Is it not a fact that they were all present and that there was a session here called by you of the Executive Council, which they all attended? A. I cannot tell you positively. I can ascertain in a few moments and let you know absolutely.

Q. Do you recall whether or not Mr. Morrison was here? A. Mr. Morrison was here.

Q. And Mr. Mitchell? A. I cannot say as to Mr. Mitchell.

Q. Was he not here in Washington on the day that the subpoena was served upon you? A. I have already said that if you will let me ascertain, I can do so in a moment and tell you.

Q. If it is necessary in order to ascertain such a simple fact as that, do so, and do it now. A. I protest against the language you use.

Q. What particular expression is there that I have used which

you object to? A. You assume that I am trying to evade the telling of the truth.

Q. Your assumption is incorrect about that. A. When I tell you that I will give you the information in a few moments. (Continuing after examination of some data.) The morning of the first day, the only member of the Executive Council absent was Mr. Valentine. He appeared in the afternoon, and all were present then.

Q. What day of the month was the first day of the session? A. August 19 to August 23, inclusive.

Q. I will defer interrogating along this line to go back to inquire about another matter which I omitted. Are you able to state the amount that was paid the printer for the printing of the January number, 1908, of the Federationist? A. No.

Q. It appears in the April Federationist for 1908, in the 699 account of the statement of the disbursements for the month of February, that on February 12 there was paid for printing the January number, 1908, of the American Federationist, \$646.43. Can you tell from those figures how many extra copies were ordered and received by the Federationist? A. No sir.

Q. Knowing the number of pages in that number, as compared with other numbers containing a similar number of pages, and the price paid for the others, could you tell? A. No sir.

Q. What was the method of ascertaining the cost to the Federation of extra copies? A. The cost varies often as much by the number of pages in the American Federationist as by the number of extra copies.

Q. Certainly, I understand that, but taking the numbers containing about the same number of pages, and the cost of those other numbers, could you tell from that how many extra copies you had of this particular issue? A. No sir.

Q. How could we ascertain that? A. I cannot tell you, sir.

Q. Is there any way, any data in your possession, which we can obtain, which would indicate that? A. No sir.

Q. Now, returning to the subject which I was inquiring about a few moments ago, what period of time do you say you were together here in Washington? A. From August 19 to August 23, 1907.

Q. And Mr. Mitchell and Mr. Morrison and yourself were 700 together at that time? A. Together with the other members of the Executive Council.

Q. Did you continue together longer than that? A. No sir.

Q. Did you go down to Norfolk together? A. That was not in August, it was later in the year.

Q. Oh, yes; it was at that time. A. Yes, you are correct. The Executive Council is directed to make arrangements for the conventions in November, and inasmuch as the convention was to be held in Norfolk, Virginia, to make arrangements for that, that is, in the selection of halls and headquarters, as well as the fact that the American Federation of Labor had an extensive exhibit in the Jamestown Exposition—

Q. Mr. Gompers, I don't want to have you lumber up this record

with all such irrelevant matter. A. You want to do it all yourself, do you?

Q. I want to know the simple fact whether or not you were together after you were in Washington. A. The dates were August 19th to 23rd, inclusive, and that includes the time that we went to Norfolk and were at Norfolk, and I wanted to explain to you——

Q. I don't care for anything else. The only material fact I wanted to ascertain was the length of time that you gentlemen were together here on that occasion, whether it was in Norfolk or Washington. A. I am less concerned in explaining to you than I am to the court.

701 Q. Well, go on, if that is the best way you can answer the question, answer it that way. I will call your attention to the fact that the materiality of it is that you gentlemen were all together. A. And I have already testified to that fact.

Q. During this period? A. Yes sir.

Q. That period extended from the 19th until the 23rd of August?

A. Yes, sir; except that Mr. Hayes, one of the Vice-Presidents, did not go down to Norfolk with us.

Q. I mean Mr. Morrison, Mr. Mitchell and yourself were together? A. Yes sir.

Q. From the 19th until the 23rd inclusive? A. Yes sir.

Q. It is alleged in the petition asking that you gentlemen be adjudged in contempt, that on the 20th of August, 1907, you published, or you were interviewed by representatives of three prominent newspapers, and such interview was extensively published throughout the country, and including Washington, D. C., and in the interview so published you said:

"When it comes to a choice between surrendering my rights as a free American citizen or violating the injunction of the courts, I do not hesitate to say that I shall exercise my rights, as between the two."

Do you know of your own knowledge whether that statement appeared in the newspapers at that time? A. I do not.

702 Q. Of your own knowledge? A. I have already answered.

Q. At what time did you write the portion quoted, from the October, 1907, number of the American Federationist, in the thirteenth paragraph, as follows. I will read it to you. (Reading:)

"So labor must not use its patronage as it will—that is, if Van Cleave of Buck's Stove and Range Company fame has his way. But what vested right has that company in the patronage of labor or of labor's friends? It is their own to withhold or bestow as their interest or fancy may direct.

"They have a lawful right to do as they wish, all the Van Cleave, all the injunctions, all the fool or vicious opponents to the contrary notwithstanding.

"Wonder whether Van Cleave will try for an injunction compelling union men and their friends to buy the Buck's Stove and Range Company's unfair product?

"Until a law is passed making it compulsory upon labor men to

buy Van Cleave's stoves we need not buy them, we won't buy them and we will persuade other fair-minded, sympathetic friends to co-operate with us and leave the blames things alone.

"Go to — with your injunctions."

And this other additional statement quoted from the same:

"The Buck's Stove and Range Company of St. Louis (of which Mr. Van Cleave is president) will continue to be regarded and treated as unfair until it comes to an honorable agreement with
703 organized labor. And this, too, whether or not it appears on the 'We Don't Patronize' list?"

A. I cannot tell you when I wrote it, but that is an expression of editorial opinion——

Q. I am asking you as to when you wrote it? A. I have not any recollection when I wrote it.

Q. Was it before the 1st of October, as it appeared in the October number of the American Federationist? A. I think the question contains, itself, an answer to your question. It could not have — printed if it had not been written before then?

Q. Before the first of October? A. Yes.

Q. Can you tell about how long before the first of October it was?

A. No sir.

Q. Can you approximate it? A. No sir.

Mr. RALSTON: In other words, was it after this suit was started?

By Mr. DAVENPORT:

Q. In other words, I want the date, not whether it was after this suit was started or not. It was some time previous to October 1st, was it not? A. Yes sir. That is obvious.

Q. About how long? A. I cannot tell you.

Q. About what time, according to your previous testimony here, are the copies of the Federationist delivered? A. About the
704 24th.

Q. Then it was previous to the 24th of September? A. I suppose so.

Q. About how long? A. I could not tell you, sir.

Q. Have you given us your best information on that subject? A. Yes sir.

Mr. RALSTON: He has answered that four times.

Mr. DAVENPORT: That parrot-like statement——

Mr. RALSTON: It is almost as parrot-like as the question.

Mr. DAVENPORT: Your observations and comments are very interesting, but very inappropos.

By Mr. DAVENPORT:

Q. On the fifth day, if I am right about it—— A. Will you not permit me to make this statement; that the editorials ought to be taken as a whole rather than any extract from it?

Q. Well, that comment is something that you can make later. I want to call your attention now to another matter right in this con-

nection. It appears in paragraph 11 of the complaint that on the fifth day of September, 1907, you stated, at the Jamestown Exposition, in the course of your Labor Day speech, delivered there, as a public address, as follows:

"An injunction is now being sought from the Supreme Court of the District of Columbia against myself and my colleagues of the executive council of the American Federation of Labor. It
705 seeks to enjoin us from doing perfectly lawful acts; to deprive us of our lawful and constitutional rights. So far as I am concerned, let me say that never have I, nor ever will I, violate a law. I desire it to be clearly understood that when any court undertakes without warrant of law by the injunction process to deprive me of my personal rights and my personal liberty guaranteed by the Constitution, I shall have no hesitancy in asserting and exercising those rights."

Can you state when you wrote those words, how long before the 5th day of September? A. I did not write them, as far as my recollection goes. I did not write out my speech for Labor Day at the Jamestown Exposition. Some weeks after Labor Day I was asked by a gentleman to write out my recollection of that speech, or the speech I made, and I complied with his request and wrote it, or rather dictated it to a stenographer which he furnished me, and I dictated it on a train. That was some weeks after. As to what you are quoting, I cannot now recall.

Q. I am quoting from your public address which you admit that you made, you admit by your answer that you made it, or swear that you made it in your answer—— A. I made a public address——

Q. What I want to know is this. I understand you to say that you did not write it out previously, but at a later date you wrote it out? A. Yes sir.

Q. And at the request of some gentleman. Can you tell us with any definiteness when that was written? A. I cannot tell you definitely when that was.

706 Q. It was before the first of October, was it not? A. I cannot tell you, really, sir.

Q. Well, now, in the October number of the Federationist, which you said must have been written before the 24th of September, it appears that this very language was used. A. In the October number?

Q. Yes, in the editorial column. A. If it is in the American Federationist, it is correct. I find that it is.

Q. Yes; I thought you would come to that conclusion before you got through. Now, I want to know when you furnished that material to the printer? A. Some time before the 24th. I should assume that it was probably the 14th or 15th, or probably a little earlier.

Q. Would you have us understand that this language as it appears here had not been previously prepared, or whether it was in the exact language that you employed in your speech? A. I would not be sure.

Q. Do you not know that that very language was printed on the morning of the 6th, by all the Associated Press despatches? A. I think that it is accurate. There was no stenographer present, but I am satisfied that it is accurate in sense, anyway, and if my recollection serves me, that is the language.

Q. How was that accurately contained, if there was no stenographer present, if it was not written, and if it did appear in the daily papers of the country on the morning of the 6th of
707 September as the statement made by you in regard to this matter? Are you not mistaken when you say you did not have it written? A. I say I am not mistaken when I say that I did not have it written.

Q. Had you not furnished the Associated Press with copies before that? A. No sir.

Q. Are you positive about that? A. Yes sir.

Q. Was this dictated on that day or that night? A. No sir. My recollection of the full speech, you mean?

Q. Yes. A. I say no.

Q. I mean this portion. A. That was done weeks after.

Q. How many weeks afterward? A. I could not tell you. My memory does not serve me as to how long afterwards.

Q. It appears then, that all the information we can obtain from you on this subject is that this language of yours was not written by you until some weeks after the date of the delivery of the speech? A. No, I do not say that. I say that I did not write my speech, nor any portion of my speech, before its delivery.

Q. Is that all you care to say about that? A. Yes sir.

Q. In Paragraph 12 of the petition, it appears:

708 "In the same October, 1907, number of the American Federationist, at page 785, in the editorial column thereof, under his own name, after reciting on the preceding page the filing of the original bill in this cause and the institution of the present suit, the said Samuel Gompers used the following language, referring directly and specifically to this cause:

"So long as the right of free speech and free press obtains, we shall publish the truth in regard to all matters. If any person or association challenges the accuracy of any of our statements, we are willing to meet him or them in the courts and defend ourselves. So long as we do not print anything which is libelous and seditious, we propose to maintain our rights and exercise liberty of speech and liberty of the press. If for any reason, at any time, the name of the Buck's Stove and Range Company does not appear upon the 'We Don't Patronize' list of the American Federationist (unless that company becomes fair in its dealings toward Labor), all will understand that the right of free speech and free press are denied us; but even then this will not deprive us, or our fellow-workmen and those who sympathize with our cause, from exercising their lawful right and privilege of withholding their patronage from the Van Cleave Company—The Buck's Stove and Range Company of St. Louis."

The WITNESS: You are not reading correctly.

Mr. DAVENPORT: I am reading from the petition.

The WITNESS: Well, but that is not accurate. I have the editorial before me.

Mr. DAVENPORT: This is the way it is alleged in the petition and admitted in the answer. I will read this thing through
709 first. (Reading:)

"So far as we are personally and officially concerned, we have fully stated out position in the American Federationist and elsewhere.

"Do not fail to keep the Buck's Stove and Range Company of St. Louis in mind and remember that it is on the unfair list of organized labor of America."

Now, can you tell when the language which I have quoted was written by you? A. No sir.

Q. It must have been before the 24th of September, was it not? A. Yes sir.

Q. You have no means of recalling with any definiteness how long before the 24th? A. No sir.

Q. Mr. Gompers, was this October number of the Federationist published in the usual way and sent out to the different persons whom you have heretofore mentioned as receiving them? A. Yes sir. As to receiving them, of course I cannot say, but they were sent out in the usual way.

Q. That is, the officers of the unions you have mentioned, the organizers, the secretaries of the unions, the secretaries of the central bodies, and the subscribers generally? A. Yes, and universities and libraries.

710 Q. So that it had been published before the meeting of the Norfolk convention? A. Yes sir.

Q. It is stated here that the Norfolk convention was held on the 11th to the 23rd of November, 1907? A. Yes sir.

Q. Now, in the usual course of things in the management of the affairs of the American Federation of Labor, this meeting of the Executive Council, which you held in August, would have been regularly held in September, 1907, would it not? A. No sir.

Q. The fiscal year of the organization ends on the 3rd of September, does it not? A. Yes sir.

Q. Do you not usually hold the meeting in September? A. No sir.

Q. What—can you not tell by a little reference to that? A. I have answered.

Q. It is not usual? A. No; the sessions of the Executive Council are held at the call of the president.

Q. But are they not usually held in September? A. And at such other times as the Executive Council may advise the president, but always subject to the president's official decision. I may say that he usually yields to the Executive Council's wishes.

Q. The question I want to know now is whether the usual
711 time of meeting of the Executive Council is not in September?

A. It is not. It meets sometimes in September.

Q. Is it not at that time at which the report of the secretary as to the condition of the affairs of the Federation is brought up; is it

not so provided in the constitution? A. No sir. There are no stated periods for the meeting of the Executive Council. The usual——

Q. Did you not call that meeting a month before the usual time, with a view to this expedition down to Norfolk, to the Jamestown Exposition? A. No sir. As a matter of fact, the Council decided at its previous meeting to hold its meeting at the headquarters of the American Federation of Labor in August.

Q. Rather than in September? A. The question of September was not in mind at all, and it was before any knowledge of this suit being brought against us——

Q. It was the knowledge sent through the press coming to my attention that you had called the meeting in August, which I expected would be held in September. A. Of course I have no control over your anticipations and expectations, and my course is not directed by your anticipation.

Q. I did not suppose it was, but what I wanted to know was—and I want to get that fact if it was—well, when was it held this year? A. In January, in March and September.

Q. September of this year? A. Yes sir.

712 Q. And when was it held the year before last? A. The year before last?

Q. Yes, 1906. A. I don't recall.

Q. In September, was it not? A. It may be; I don't recall.

Q. In 1905? A. I don't know; I don't recall.

Q. I wish you would refresh your recollection a little upon that point by reference to the records. The suit was commenced, it appears, on the 19th of August, 1907. I presume the subject of the suit was a matter of discussion at this meeting of the Executive Council which was in session at that time, was it not? A. Yes sir.

Q. When did you next have a meeting of the Executive Council? A. I think in November.

Q. Where was it held? A. I think both in Washington and Norfolk.

Q. Let me see if I cannot quicken your recollection on that subject. Do you recall the incident of yourself and Mr. Morrison having been subpoenaed to appear before the examiner in the office of Mr. Darlington on the first of November? A. I remember that incident; but I do not recall the date.

Q. Well, at that time, was not the Executive Council, or
713 a portion of it, here? A. A portion of the Executive Council is invariably here.

Q. Yes, and others too? A. I have no recollection.

Q. When do you think you had your session? A. Just prior to the convention of the American Federation of Labor.

Q. That convened on the 11th. Do you recall that the rule to show cause why a temporary injunction should not be issued was determinable on the 8th of November? A. I don't recall it, sir.

Q. Do you recall anything about endeavoring to get it postponed until after the session of the convention? A. Yes sir.

Q. Do you recall stating at the time that the Executive Council

was here that you had your report to prepare, and Mr. Morrison had his report to prepare, and there was the Executive Council's report to be prepared—now, in point of fact, were those reports in preparation and being considered here in Washington before you went to Norfolk? A. I think not, sir.

Q. Then am I to infer from that that they were all prepared in Norfolk? A. Either prepared or in the course of preparation here, and their consideration both here and Norfolk. I am under that impression. I am not sure whether we had the meeting of the Executive Council in November, 1907, at Washington.

Q. What is your impression about it? A. I have no impression about it.

714 Q. In your report to the convention—— A. My report, or the Executive Council's report?

Q. Your report, as president, to the Convention. (Continuing) appears an extended reference to this suit, under the heading, "Van Cleave's suit against the A. F. of L." Can you now recall whether or not that report was submitted by you to the Executive Council before it was presented to the convention? A. I know it was not. I am alone responsible for that report.

Q. Responsibility is a matter to be determined by others. The question is whether or not it was shown. A. I assume, and am willing to assume the responsibility for it.

Q. You will have to assume the responsibility for it? A. Whether I have to or not, I assume it.

Q. But whether or not you will play a lone hand on it is another part of this. I will read to you from your report, which bears date Norfolk, Virginia, November 11, 1907, the following, which I will ask the stenographer to incorporate in the transcript of the evidence.

(Reading from page 35 of the report of the proceedings of the Twenty-seventh Annual Convention of the American Federation of Labor held at Norfolk, Virginia, November 11 to 23, inclusive, 1907:)

"Van Cleave's Suit Against the A. F. of L."

"The Buck's Stove and Range Co., of St. Louis, of which Mr. J. W. Van Cleave is president (and he is also president of
715 the National Association of Manufacturers), brought suit against the American Federation of Labor, the members of its Executive Council, both officially and individually, and several other officers and members of unions attached to international unions affiliated to the American Federation of Labor. The papers in the suit of the Buck's Stove and Range Company have been served upon us, and also a notice to show cause why a permanent injunction should not be issued against our publishing the company upon the 'We Don't Patronize' list in the American Federationist. Inasmuch as this report is written in advance of the day set for the hearing of this application for an injunction, November 8, the developments hereof will be incorporated in the report of the Executive Council.

A *résumé* of some of the incidents leading to the present situation may be necessary for the proper understanding of our position.

"The International Brotherhood of Foundry Employés and other organizations had an agreement with the Buck's Stove and Range Company, and some still have agreements, either directly or through an employers' association of which the Buck's Stove and Range Company is a part. In the case where the organization of labor was not so well fortified, the company antagonized it, assuming a hostile attitude with a view of crushing the union and imposing unfair conditions upon its members in the line of work which they performed.

"A contest ensued and the organization in question declared the Buck's Stove and Range Company, of St. Louis, unfair. It appealed to all organized labor and its friends to transfer their
716 patronage to other and fairer employers. A similar appeal was made to the American Federation of Labor, and, pursuing the usual course followed in cases of appeals of this character, I caused an investigation to be made and made further investigation myself, and had a representative of our Federation endeavor to bring about an honorable adjustment of the controversy between the organization primarily in interest and the company.

"The fact developed that Mr. Van Cleave, the president of the company, was known to be so hostile to all organized labor that he violated the agreement he had for his company (through the employers' association, of which he was a member,) with an international union, and that it was only through the disciplinary power and measures of that employers' association that he for his company was required to conform to the agreement. In the case in point the International Brotherhood of Foundry Employés had no such advantageous position, and Mr. Van Cleave, for his company, exercised his antagonism to the fullest.

"The investigation demonstrated clearly Mr. Van Cleave's hostile purpose toward the organization in question, and every effort at an amicable adjustment was fruitless. It was then that my colleagues and myself, the Executive Council, approved the position and action of the organization affected, and this fact was published in the American Federationist. The suit is brought to prevent this publication. It will determine our legal right not only in this instance, but practically in all similar cases.

"The Executive Council and the other defendants authorized me to retain competent counsel to defend our rights before the
717 court. In arguing a preliminary motion before Judge Claibough, of the Supreme Court of the District of Columbia, the counsel for the Buck's Stove and Range Company substantially declared the following to be about the theory of its case:

"That the American Federation of Labor and all its affiliated organizations, international, the locals of internationals, state federations, city central bodies, locals affiliated to them, all local branches directly affiliated by charter, are engaged in one common purpose; that they find it inexpedient to become incorporated and are therefore

bound to all the legal responsibilities appertaining to partners and partnership; that under this partnership the American Federation of Labor is legally responsible for the acts of a constituent body located at a distance and even though the officers of our Federation may know nothing whatever of the doings of the distant 'partners,' this partnership liability extends not merely to contract relations but to the tortious and wrongful acts of the individual members of all the organizations or branches enumerated.

"Our counsel advise me that the idea of the counsel for the Buck's Stove and Range Co., is apparently that the American Federation of Labor and all of its constituent parts are running amuck in boycotting, and in this course any person, no matter how distantly associated with a 'minor union,' is responsible for all of its acts. Our counsel add: 'To our minds this theory outlined by the complainant is absolutely untenable, and the fact that it is advanced indicates a want of solid ground upon which to rest the bill of complaint.'

718 "The taking of testimony will, I am informed, shortly begin.

"Quite apart from the consideration of the absurdity of such a position, it would make the American Federation of Labor, as such, its executive officers, officially and individually legally responsible for any action taken by any local union even though remotely related to the American Federation of Labor. Let me present some of the fundamental principles involved in the assertion of labor's rights.

"The ownership of a free man is vested in himself alone. The only reason for the ownership of bondsmen or slaves is the ownership of their labor power by their masters. Therefore, it follows that if free men's ownership of themselves involves their labor power, none but themselves are owners of their labor power. Hence, it is essential that the product of a free man is his own. If he by choice or by reason of his environment sells his labor power to another and is paid a wage in return therefor, this wage is his own. This proposition is so essentially true that it is the underlying idea upon which is based the entire structure of private property. To question or to attempt to destroy the principle enunciated, involves the entire structure of civilized society.

"The free man's ownership of himself and his labor power implies that he may sell it to another or withhold it; that he may with others similarly situated sell their labor power or withhold it; that no man has even an implied property right in the labor of another; that free men may sell their labor power under stress of their
719 needs, or they may withhold it to obtain more advantageous returns.

"Labor power is not a product; it is a human power to produce. In its very nature it can not be regarded as a trust or a corporation, formed in restraint of trade. Any legislation or court construction dealing with the subject of organizations, corporations or trusts which curtail or corner the products of labor, can have no true application to the association of free men in the disposition or withholding of their labor power.

"The attempt to deny to free men, by injunction or other process, the right of association, the right to withhold their labor power or to induce others to withhold their labor power, whether these men be engaged in an industrial dispute with employers, or whether they be other workmen who have taken the places of those engaged in the original dispute, is an invasion of man's ownership of himself and of his labor power, and is a claim of some form of property right in the workmen who have taken the places of strikers, or men locked out.

"If the ownership of free men is vested in them and in them alone, they have not only the right to withhold their labor power, but to induce others to make common cause with them, and to withhold theirs that the greatest advantage may accrue to all. It further follows that if free men may avail themselves of the lawful right of withholding their labor power, they have the right to do all lawful things in pursuit of that lawful purpose. And neither court injunctions nor other processes have any proper application to deny to free men these lawful, constitutional, natural and inherent rights.

720 "In the disposition of the wages returned from the sale of labor power, man is also his own free agent. All things he may lawfully buy, he may also lawfully abstain from buying. He may purchase from whomsoever he will, or he may give his patronage to another. What he may do with his wages in the form of bestowing or withholding his patronage, he may lawfully agree with others to do.

"No corporation or company has a vested interest in the patronage of a free man. If this be true, and its truth can not be controverted upon any basis in law, free men may bestow their patronage upon any one or withhold it, or bestow it upon another. And this, too, whether in the first instance the business concern is hostile or friendly. It is true for any good reason, and in the last analysis, for no reason at all.

"It is not a question as to whether we like or dislike lockouts or strikes, boycotts or blacklists. The courts have declared that lockouts and the blacklists and all that pertain thereto are not unlawful. It is difficult to understand, then, unless there is some conception in the courts of an employer's property right in some form in the laborer or the laborer's patronage, how they stretch their authority pervert the purpose of the law and undertake by the injunctive process to outlaw either the strike or the boycott.

"To claim that what one man may lawfully do when done by two or more men becomes unlawful or criminal, is equal to asserting that nought and nought makes two.

"In the case in point, the suit brought against us by the Buck Stove and Range Company, another and exceedingly important feature is involved. It is a blow aimed at the freedom of speech, the freedom of assemblage, the freedom of thought and particularly the freedom of the press.

"The constitution of the United States and the constitution of every state in the Union are in accord with it, clearly justifying labor's contention.

"The first amendment to the constitution of the United States provides that, 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; *or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble*, and to petition the government for a redress of grievances.'

"The attempt to enjoin or prevent the publication of the 'We-Don't Patronize' list of the American Federation of Labor, whether by injunctive process or other judicial or legislative means, would be in direct violation of the constitutional guarantee and would indeed abridge free speech and a free press. In all the land there is neither law nor power to enforce such a decree."

Then follows a statement of the case of the Mark and Haas Jeans Clothing Company *vs.* Watson *et al.*, which I will ask be incorporated in this transcript.

"The Mark and Haas Jeans Clothing Company *vs.* Watson *et al.*, March, 1902. Watson and others represented the United Garment Workers of America which issued a circular asking the public not to deal with that house or with other houses using the company's brand of clothing. The Company sought an injunction to prohibit
722 the promulgation of the circular. The circuit court denied the writ, the defense being the constitutional right of freedom of speech and of the press. Upon appeal the higher courts in Missouri sustained that contention, and held that the idea underlying the constitutional guarantee was punishment, not prevention; that if prevention exists, then there can no opportunity possibly arise for one to become responsible for saying, writing or publishing anything he may desire upon any question. The constitution, in forbidding laws impairing the right of free speech, recognized that right as pre-existent, and forbids legislation impairing that freedom. There is no exception thereto; the proscription is affirmative. The Missouri case to which I have already referred is so important that it deserves further recounting here.

"The court took up the argument that an injunction should be issued because the firm could not collect damages from the authors of the circular. The court pointed out that in the case of *Association vs. Boogher* (3 Mo. App., 173), it was decided that a libel can not be enjoined because owing to the insolvency of the libeler the victim could not recover damages for the libel. For if the remedy of injunction be given because of insolvency of the defendant, the freedom to speak and write which is secured by the state to all its citizens would be enjoyed by a man able to respond in damages to a civil action, and denied to one who has no property liable to execution. The court said there is no power to suspend the right for a moment or for any purpose. There is no instrumentality to limit or to restrict
723 the right, except fear of the penalty, civil or criminal, which may wait on abuse. Only licentious abuse of free speech can be punished by law. No law can abridge the right of free speech. Wherever the authority of injunction begins, there the right of free speech, free writing, free publication, ends. No half-way

house exists between absolute prevention and absolute freedom. The right can neither be impaired by the legislature nor hampered nor denied by the courts. That a man has no means, that he can not be mulcted in damages for his speech or writings, matters not. The impecunious man has the same right as the wealthy. The exercise of the right of free speech is as free and unrestricted as if no civil recovery could be had or punishment inflicted because of its unwarranted exercise. The fact that the publication does an actionable injury does not go a hair toward a diminution of the right of free speech, for the exercise of which, if resulting in an injury, the constitution makes the speaker or publisher expressly responsible. Such responsibility is utterly incompatible with authority in a court of equity to prevent such responsibility from occurring. William Marion Reedy recently declared that labor can not be enjoined from continuing the publication of the list of 'unfair' employers. Discussing the Van Cleave suit against us, he said: 'The law as to the matter stands the same under the national constitution as under the state constitutions. Free speech and free publication are too sacred things to be thrown overboard at the request of the National Association of Manufacturers, or if not thrown over, reduced to such meaninglessness as now attaches to the workingman's so-called 'freedom of contract.'"

724 "The rights laid down by the court in this case support in every regard the contentions of organized labor, and we propose to contend for our rights upon the ground of the freedom of speech, the freedom of the press in the case of the so-called boycotts and the right of man's ownership of himself, of his labor power, to sell it or to withhold it, and to do all lawful things in furtherance of his interests, whether done singly or collectively, in case of lock-outs, strikes or boycotts."

Q. (Continuing:) Now, as I understand you, you did submit or show that to the Executive Council before you laid it before the convention. Am I correct in that? A. Yes, sir.

Q. Was what I have read to you contained in your report? A. It was.

Q. In your report to the convention of 1907? A. It was.

Q. And it is to be found on pages 35, 36, 37 and 38 of the Proceedings of that convention, which have been introduced here and marked Exhibit A. H. No. 1. Did you read that report to the convention? A. I did.

Q. The part that I have quoted to you? A. Yes, sir; it was a part of my report.

Q. You read it? A. Yes, sir.

(At this point, the examination of Mr. Gompers was suspended to allow Mr. Matthews to give his testimony.)

725 Whereupon, CHARLES B. MATTHEWS, produced as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

By Mr. DAVENPORT:

Q. Where do you reside? A. Which is the court?

Mr. DAVENPORT: This is the court, (referring to Examiner Harper).

The WITNESS: Before I answer any questions, I am prohibited under the Postoffice Regulations, Section 549, from giving any information, except to the sender or addressee of the mail matter in question. If you will read Section 549 and then insist on my testifying, of course I suppose I will have to do so.

Examiner HARPER: I have no power to make any ruling, but only to certify to the court.

The WITNESS: I do not care to testify unless I am compelled to, unless the matter in question is about mail matter which the senders or the addressees wish to know about. I can give them any information they want.

Mr. DAVENPORT: I will read the Section referred to.

(Mr. Davenport read Section 549 as follows:)

"Postmasters and all others in the Postal Service must not furnish information concerning mail matter received and delivered except to the persons to whom it is addressed or their authorized agents or postoffice inspectors.

726 "Second, when the same can be done without interference with the regulations of the office, postmasters may, however, furnish to officers of law, to aid them in recovering a fugitive from justice, information concerning the postmarks, and the addresses of letters, but they must not furnish information concerning the persons addressed."

The WITNESS: The subpoena is not correct. It is Charles E., and my name is Charles B. But I will waive that.

By Mr. DAVENPORT:

Q. Are you the assistant postmaster at Station G? A. I am the assistant superintendent at Station G.

Q. And as such, have you the possession of the records, showing the receipts and the dates, the weighing and mailing of the American Federationist, for December, 1907, and January 1908? A. I have.

Q. Are these the documents you have with you? A. They are.

Q. I now ask the witness to produce those records? A. I put it up to the court.

The EXAMINER: There is the writ of the court issued to you to produce them. I think you are protected by that.

The WITNESS: I do not care to answer unless the court insists upon it, because I am just a subordinate of the Postoffice Department, and under that ruling I do not see how I should be made to answer those questions unless the court insists upon it.

Mr. DAVENPORT: Well, I insist upon it. I am not the court, but

I insist upon it, and I will say right here that — applied to this gentleman for this information and he declined to give it, and
 727 he referred me to the Assistant to the Postmaster. I saw him and he said that I would have to see the Assistant Attorney-General, Judge Goodwin. I went to that department of the circumlocution office and laid the matter before him, and he said the only thing to be done, inasmuch as they would not impart the information without a subpoena from the court, was to issue a subpoena and summon them to court, and then they would show the regulation and answer the questions. That is my information.

Mr. RALSTON: If you will tell us what you want to prove, we may admit that you can prove it.

Mr. DAVENPORT: I want to show the date of the mailing of the American Federationist.

Mr. RALSTON: In order to help you out with this case, the sender of the matter in question waives any objection at all to an answer to the question.

The WITNESS: Mr. Morrison and Mr. Gompers are the gentlemen I generally have dealings with; and they are the senders of the matter. I will go ahead now. What is it you wish to know?

By Mr. DAVENPORT:

Q. Is a record kept of the date of the reception and of the weighing and of the actual mailing of the periodical known as the American Federationist? A. There is.

Q. Have you such a record? A. I have.

Q. With you? A. I have.

Q. Will you produce the record showing that for the
 728 month of December, 1907? A. Any particular day or the whole month?

Mr. RALSTON: Any date after the 23rd will suit Mr. Davenport.

A. The regular issue came out on the 22nd day of December. Seventeen hundred and sixty-two pounds. Now, then, gentlemen, if you are willing, I will call off the mailings of the American Federationist for the month of December. Is that the idea?

Mr. DAVENPORT: That is right. That means the receipt of the matter for mailing. You have the dates of receipt and weighing and mailing?

A. Yes sir. And the balance of deposit on hand. I will also give that.

The first receipt issued is on the 7th of December, ten pounds. That left a balance to the Federationist of \$59.90 on hand.

On the 9th, 700 pounds. That left a balance of \$52.90. On the 15th 37 pounds; a balance of \$52.53.

You understand this balance is cash on hand to the credit of the American Federationist.

On the 17th, eight pounds. That left a balance of \$52.45.

On the 21st, two pounds. A balance of \$52.43.

On the 22nd of the month was issued the magazine for the com-

ing month. They generally mail along about that time of the month. It shows date of issue the 22nd. Number of receipts given,

1. Subscribers' copies, 1762. Amount of postage, \$17.62.

729 I will state, gentlemen, that this "subscribers's copies" refers to the weights, not the copies themselves, of course.

That left a balance of \$34.81.

On the 23rd, 75 pounds mailed. That left a balance of \$34.06.

On the 31st there were three pounds of mail. That left a balance of \$34.03.

730 Q. Now, turn to the month of January. A. January, 1908?

Q. Yes. A. On the fourth of January there were fourteen pounds mailed. Do you care for the amounts each time? That is, the amounts of the balances of money?

Q. You might make just a copy of it. Q. Fourteen pounds mailed, left the balance of \$33.89. On the fifth, there was \$25.97 deposited by the publishers, but no mailing at all on that day. On the 9th there was eleven pounds, leaving a balance of \$59.75. On the 14th there was eight pounds, leaving a balance of \$59.67. On the 17th there was fifteen pounds, left a balance of \$59.52. On the 24th there was eight pounds, leaving \$59.44. On the 25th, the regular issue came out again on the 25th, another issue; 134 pounds, and left \$58.10. On the 27th 1076 pounds, leaving \$47.34. On the 28th there were 527 pounds, left a balance of \$42.07. On the 30th seven pounds, leaving a balance of \$42.00, and on the 31st they deposited \$17.93 to their credit again.

Q. Now if you will recur to the sheet for December. What is your entry there about the 20th or 22nd? A. What do you mean? The amount? 1762 pounds that day.

Q. 1762? A. Yes.

Q. On the 22nd? A. Yes. That is really the bulk of the issue there.

731 Q. On the 23rd? A. There were seventy-five pounds came in one the 23rd. They have scattering a few pounds every now and then during the month. That is the end of that quarter. That shows they mailed 2597 pounds that month, in the month of December.

Q. Will you state how accurate that is? A. How accurate?

Q. Perfectly accurate? A. Yes sir; absolutely accurate.

Q. When are these entries made? A. When are these entries made? They are made in my own handwriting here. This is part of my work, to keep that record.

Q. At the day and time? A. This receipt is generally sent to the Federation the morning following the mailing, because the mailing comes in the evening previous, and if they were to send two wagon loads, one of 500 pounds and one of 700 pounds, we would bunch them and send them one receipt.

Q. The point is I want to know the fact whether or not this is not an absolutely accurate report. A. As to dates, yes.

Q. Dates and amounts? A. And amounts and pounds.

Q. And they are actually received the day that the entry was made? A. Oh, yes. We never have any trouble with that.

Q. This is the record merely of the items that are mailed at the publishers' rate? A. Oh, yes.

732 Q. It does not embrace individuals? A. Oh, no, it has nothing to do with mere postage matters at all. That does not enter into it. This is just the magazine alone.

Cross-examination.

By Mr. RALSTON:

Q. Of course, when you say you received something I think like seventeen hundred pounds on the 22nd of December, that is the date on which the paper or the Federationist was actually delivered at the post office? A. Deposited in that office at that time. I might state that the reason for it is that it probably came in on the 22nd, Christmas is the 25th, and they are very accommodating people down here and try to relieve us on Christmas Day.

CHAS. B. MATTHEWS.

Subscribed and sworn to before me this 17th day of September, 1908.

ALBERT HARPER, *Examiner*.

Thereupon, at 1:20 o'clock p. m., a recess was taken until three o'clock p. m.

ALBERT HARPER, *Examiner*.

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WASHINGTON, D. C.,

September 17, 1908—Thursday, 3 o'clock p. m.

Met pursuant to adjournment.

Appearances, same as this morning.

Whereupon the witness, SAMUEL GOMPERS, was recalled and testified further as follows:

By Mr. DAVENPORT:

Q. John B. Lennon is the treasurer of your organization? A. He is treasurer of our Federation.

Q. And one of the Executive Council? A. Yes sir.

Q. And a defendant in this suit? A. Yes sir.

Q. And did he attend the meeting of the Executive Council in August, 1907? A. Yes sir.

Q. Did he attend the meeting of the Executive Council in November preceding the convention at Norfolk? A. Yes sir.

Q. Did he submit a report to the convention? A. Yes sir.

Q. I call your attention to page 72 of the Report of the Proceedings of the Twenty-Seventh Annual Convention of the American Federation of Labor, held at Norfolk, Virginia, November 12
734 to 23, inclusive, being exhibit A. H. No. 1, and read particularly this portion:

"The 'Bucks' stove is not calculated to warm the cockles of the heart of any trade unionist,—no, nor of any man or woman that

stands for a square deal. I do not mean a square deal in name only, but I mean a square deal as to the carrying out of the Golden Rule in our industrial life. We propose to keep warm without the use of any Buck stoves, injunctions to the contrary notwithstanding."

Did you attend the meeting of the Executive Council, Mr. Gompers, at Norfolk in November preceding the convention? A. I did, but what connection has that with what you just read?

Q. Its connection may be apparent. It is not necessary for me to connect it. I want to know the facts. A. But you read something and asked a question in regard to it.

Q. Yes, I asked whether or not he made the report? A. He did.

Q. And I called your attention to it and pointed out where it is to be found in this exhibit, and I read that extract from it. A. I attended the meeting.

Q. Even if you do not see the connection, you can answer it just the same. Did you unite in the report of the Executive Council for submission? A. I did.

Q. That bears date November 12, 1907. You signed it with the others? A. Yes.

735 Q. Can you state whether they were all present except Mr. Mitchell? A. I think they were, sir.

Mr. SIDDOXS: Excuse me, but you make statements and have asked questions that do not cover your statements. You said, "Now you signed it," but you did not ask him if he did sign it.

Mr. DAVENPORT: I intended to make it clear that it was a question.

The WITNESS: The custom was that when it was approved, the names were attached.

Q. By whom? A. Usually by myself, or the stenographer by my direction.

Q. By somebody that had authority to attach the names? A. Yes sir.

Q. It was not done without authority? A. No.

Q. Well, that is sufficient. Now, to save time, I will ask that there be inserted an extract from that report as found on page 90 of exhibit A. H. No. 1, being pages 90, 91 and 92 inclusive, and reading as follows:

"Van Cleave's Buck Stove Suit Against A. F. of L.

"You have already been made acquainted with the fact that the Buck's Stove and Range Company has brought suit against the Executive Council of the American Federation of Labor and officers of other affiliated organizations both in their official and individual capacity. The president of the company is Mr. Van Cleave, who is also president of the National Association of Manufacturers, 736 and vice-president of the so-called Citizens' Alliance and other organizations whose main mission seems to be the effort to crush out the only defensive organization of the working people, the trade unions, local, national and international and federated into the

A. F. of L. In connection with the suit Mr. Van Cleave for his company has secured an order from Justice Clabaugh of the supreme court of the District of Columbia for us to show cause why an injunction should not be issued restraining us from publishing the Buck's Stove and Range Company upon the 'We Don't Patronize' list of the American Federation of Labor and to enjoin all labor organizations or labor men from doing anything or saying anything whether orally or in print in furtherance of the purpose to secure better recognition by the company referred to for a satisfactory adjustment of existing disputes between the union particularly in interest and the company.

"Owing to the fact that the officers, party to the suit, have been so much engrossed with their ordinary official duty, as well as their work in preparation for this Convention, and the Convention itself, our counsel on last Friday asked for a continuance, that is, a postponement on the hearing upon the proceedings to show cause why an injunction should not be issued until the close of the Convention. The case was formerly before Chief Justice Clabaugh of the Supreme Court of the District of Columbia. It is now before Justice Gould of that court. The latter granted a continuance, but only until Thursday morning, November 14th.

737 "The National Association of Manufacturers at its last convention created a War Fund of a million and a half dollars to carry on a campaign of destruction of the organizations of labor. It has hired Pinkerton and other agencies and formed auxiliary associations, the purposes of which are not only to harass the men of labor in litigation but also to create suspicion of wrongdoing. It is the apparent purpose to assassinate the character of the men who have the confidence and respect of the great rank and file of labor, not only of labor but of the great masses of our people. Until recently the Pinkertons were exclusively engaged in prying upon the men in the local organizations. To create discord, to provoke premature contest in order to render themselves of some apparent value to their employers, the Van Cleavees, Posts and others, they had no hesitancy in making false reports as to the doings of the members of local organized labor.

"The attacks upon the local men and upon the local organizations having proven fruitless, they now turn their attention to the men at the head of the labor organizations of the country. In the effort to crush out organized labor, the Van Cleavees have found the spirit of unionism and solidarity is too deep-seated in the hearts and minds of the trade unionists of America for them to succeed. They know that the men entrusted with the leadership of the labor movement throughout our country have aided materially in guiding aright the organized wage-earners. They now think that if they can destroy the confidence of the great rank and file of our movement, in the men at the head of that movement that the organizations of labor will thereby be weakened and become destroyed. They are evidently laughing in anticipated glee that the working men of our
738 country will then be at the tender mercies of the worst and most greedy elements of the entire capitalistic class.

"We have during our whole lives as have a very large number of the other active men in the labor movement conscientiously endeavored to the very best of our ability and with single-minded purpose to aid our fellow workers to protect and promote their interests. Honesty and honor have been our guides in dealing not only with the affairs of labor but with all matters of our work-a-day lives. We assert without equivocation that there is not one scintilla of truth in anything which may be either charged or insinuated that reflects discredit, dishonor or dishonesty upon the members and the officers of our great labor movement and that as our well-known bitter antagonists have failed in their attacks upon our local labor movement, their purpose to discredit and destroy the more conspicuous men of our movement will be equally abortive. You know the animus and the purpose of these attacks and you will, we are confident, treat them with the contempt they so richly deserve.

"The suit by Mr. Van Cleave of the Buck's Stove and Range Company against our movement is to deprive us of the rights to which we are entitled, the right of free association, free speech, and the freedom of the press, and with all the power which wealth gives our opponents, the exercise of all that power to antagonize our laudable movement and its purposes, they would invoke the aid of the courts and seek to persuade the perversion of law to render futile the lawful and proper means to protect the working people of our country from tyranny, greed and injustices. The full statement of the case and the principles and results involved in this suit of Mr. Van Cleave of the Buck's Stove and Range Company are fully covered in the report of President Gompers to this Convention.

"Attention has frequently been called to the efforts made by labor's opponents to entangle us in interminable litigation with the two-fold purpose of diverting our attention from the necessary work which the officers in the labor movement are required to perform, and also to compel us to — large expenditures in defense.

"The revenue of the American Federation of Labor is exceeding meagre accruing from a per capita tax of one-half of a cent per member per month; in other words, six cents per year. With all the organizing and other educational and effective work, there are no funds at our disposal for proper defense, and we, therefore, recommend that this Convention provide the ways and means by which such funds may be created as are necessary and essential, in the defense of this suit.

"We also recommend that this subject matter — referred to a special committee to report to this Convention at the earliest possible date.

'We Don't Patronize' List.

"Applications to endorse the placing of the following firms upon the unfair list of the American Federation of Labor have been made to and approved by the Executive Council from October 1, 1906 to October 1, 1907:

"Buck's Stove & Range Co., St. Louis, Mo. (International Brotherhood of Foundry Employés.)

"Carbondale Machine Co., Carbondale, Pa. (Federal Labor Union No. 11837).

"Home Stove Works, Indianapolis, Ind. (Stove Mounters' International Union).

"Indurated Fibre Ware Co., Lockport, N. Y. (Fibre Pressmen' Union).

"J. J. Kelley, New York City. (Gold No. 9331).

"J. J. Kelly, New York City. (Gold Beaters' National Protective Union).

"B. Kuppenheimer & Co., Chicago, Ill. (United Garment Workers of America).

"Manitowoc Dry Dock Co., Manitowoc, Wis. (Shipwrights, Joiners and Caulkers of American, International Union of).

"New York Bill Posting Co., New York City. (Bill Posters' and Billers' National Alliance).

"Henry H. Roelofs & Co., Philadelphia, Pa. (United Hatters of North America).

"F. W. Rauskolb, Boston, Mass. (Gold Beaters' National Protective Union).

"Standard Sewing Machine Co., Cleveland, O. (Metal Polishers, Buffers, Platers and Brass Workers' International Union of North America).

"United States Heater Co., Detroit, Mich. (Stove Mounters and Steel Range Workers' International Union).

"A. Van Buren Co., New York City. (Bill Posters' and Billers' National Alliance).

Kimball Piano Co., Chicago (Piano and Organ Workers' International Union).

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"Fair List.

"Kern Barber Supply Co., St. Louis, Mo.

"J. N. Mockett, Toledo, Ohio.

Conclusion.

"In the limits of a report such as this, it is impossible for us to deal with all of the matters which have come under our consideration during the year. We desire to say, however, that in every case which has been submitted to us, we have endeavored to give the very best thought and consideration of which we are capable and whatever action has been taken was either in compliance with the Federation's instructions or the result of our best judgment and with the best interests of the entire labor movement in view.

"Fraternally submitted,

SAMUEL GOMPERS,
JAMES DUNCAN,
JOHN MITCHELL,
JAMES O'CONNELL,
MAX MORRIS,
D. A. HAYES,
DANIEL J. KEEFE,
WM. D. HUBER,
JOSEPH F. VALENTINE,
JOHN B. LENNON,
FRANK MORRISON,

"Executive Council, American Federation of Labor."

Now, Mr. Gompers, did you preside at the meeting at Norfolk? A. I did so, generally, though sometimes, or rather frequently, I called other members of the Executive Council and other delegates to preside temporarily?

Q. To make apparent in the connection when we may have occasion hereafter to read this testimony, I at this time call particular attention to the following paragraph in the portion just quoted, found on page 91 of Exhibit A. H. No. 1.

"We also recommend that this subject matter be referred to a special committee to report to this convention at the earliest possible date."

Mr. SIDDOXS: You are still reading from the report of the Executive Council?

Mr. DAVENPORT: Yes sir.

By Mr. DAVENPORT:

Q. Now, as president of the American Federation of Labor and by the constitution presiding officer of the convention, did you appoint the committee? A. I did.

Q. First let me call your attention to this particular special committee, and what the record contains about it. I quote now from page 92 of the report of the proceedings heretofore marked Exhibit A. H. No. 1, immediately following the report of the Executive Council, where I find the following in the record:

"President GOMPERS: The chair desires to state that there are two or three matters upon which the Executive Council will submit a supplemental report later. In the report submitted by the Executive Council and by the President there were recommendations for the appointment of special committees, one upon the suit of the Van Cleave Stove & Range Co.; another upon the movement for the establishment of the universal eight-hour day, and another upon ways and means of extending the circulation of the 'American Federationist.' The chair asks what is the pleasure of the Convention upon these recommendations?"

"Delegate HART: I move that the recommendations be concurred in and the committees appointed."

"The motion was seconded by Delegate Guerin, and carried."

Have you any doubt that that is a correct statement of what occurred? A. It is correct, sir.

Q. Now, to keep the thing as compactly together as possible, I direct your attention to page 95 of Exhibit A. H. No. 1, in the minutes of the second day, afternoon session, and to the following:

"President Gompers announced the appointment of the following committees authorized by motion adopted at the morning session:

"Special Committee on Buck Stove and Range Company suit against A. F. of L.—Frank Duffy, W. D. Mahon, John P. Fry, D. G. Ramsay, John Fitzpatrick, R. S. Maloney, John T. Dempsey, Jere L. Sullivan, George Finger, Con J. Harrington, John T. Smith, S. L. Landers, John A. Moffitt, J. G. Noyes, Emmet T. Flood."

Did you appoint that committee? A. I did.

744 Q. And those gentlemen on that committee? A. Yes sir.

Q. Now, were you acquainted with those gentlemen? A. Some of them very familiarly, and others, casually.

Q. I want to know particularly a little about those gentlemen. Was the first named gentleman on the committee the chairman? A. Not necessarily.

Q. Did they elect a chairman? A. They elected the chairman.

Q. And secretary? A. And secretary.

Q. Frank Duffy—who was he? A. He is secretary-treasurer of the United Brotherhood of Carpenters and Joiners.

Q. I don't know whether you of your own knowledge could tell where he is from? A. I can.

Q. We can dig it out from these records, of course. A. He is from New York, and is now located at Indianapolis at the headquarters of the Brotherhood.

Q. W. D. Mahon? A. He is president of the Amalgamated Street and Electric Railway Men's organization, and was a candidate for Congress.

Q. Where does he live? A. In Detroit, Mich.

745 Q. John P. Fry? A. He is editor of the Iron Moulders Journal.

Q. What is that? A. The official Journal of the Iron Moulders Union of North America.

Q. Where does he live? A. Cincinnati; formerly of Worcester Mass., but now of Cincinnati, Ohio.

Q. Now of Cincinnati, Ohio? A. Yes sir.

Q. D. G. Ramsay? A. He is a member of the Order of Railway Telegraphers, an attorney at law, and now candidate for judge of one of the courts of Chicago.

Q. Does he live in Chicago? A. He does.

Q. John Fitzpatrick? A. President of the Horse Shoers' International Union; president of the Chicago Federation of Labor and located at Chicago.

Q. R. S. Maloney? A. Printer, member of the International Typographical Union and represented the Central Body of Lawrence, Mass.

Q. That is a branch of the local union of the International Typographical Union? A. Yes. He represented the local typographical union of the International Typographical Union in the Lawrence Central Labor Union, and in turn by that body was sent as a delegate to the Norfolk Convention of the American Federation of Labor.

746 Q. John T. Dempsey? A. Delegate from the United Mine Workers of America, representing that body in part.

Q. These were all duly accredited delegates to the convention? A. Yes sir.

Q. Where is Dempsey to be found? A. Scranton, Pennsylvania.

Q. Jere L. Sullivan? A. He was a delegate from the Hotel & Restaurant Employees' Alliance. He is general secretary-treasurer of that organization, and located in Cincinnati, Ohio.

Q. George Finger? A. Delegate from the Brotherhood of Paint

ers and Decorators of America, and resides at 320 Commonwealth avenue, —.

Q. Con J. Harrington? A. Representing the National Seamen's Union, and is from San Francisco.

Q. John T. Smith? A. John T. Smith is from Kansas City, Mo. I don't know whether he represented the state federation or the local central body. I can tell you in a minute. (Witness examines record.) He represented in part the Cigar Makers' International Union of America.

Q. He is a member of the Cigar Makers' International Union? A. Yes, and represented it in the central body. I don't know whether he represented it or the central body in the Norfolk convention.

Q. S. L. Landers? A. He is editor of the official journal of the United Garment Workers of America. His home is in Hamilton, Ontario, Canada, but his office is located in New York City. He represented the United Garment Workers of America in the Norfolk Convention.

Q. John A. Moffett? A. President of the United Hatters of North America, located in New York City. His home is in Mt. Claire, New Jersey.

Q. John G. Noyes? A. I can't tell that from memory. (Witness examines record.) He lives in Port Arthur, Texas, and represents, in part, the Longshoremen's International Association.

Q. Emmet T. Flood? A. Emmet T. Flood represented the Brotherhood of Teamsters of America. Mr. Flood's home is in Chicago, but he is not often there.

Q. Now, did you refer the matter specially to this committee, or by reason of the action of the convention referred to before by you, did the matter go to that committee without any special reference? The vote was that it be referred to a special committee? A. I appointed that committee and the entire report of the Executive Council was printed and then I assume the committee took up that matter.

Q. Now are all these unions, which these several gentlemen represented as delegates in the convention, affiliated to the American Federation of Labor? A. They are.

Q. Did you appoint a committee on "President's report"? A. I did.

Q. That is one of the standing committees of the American Federation of Labor? A. Yes sir.

Q. I refer you to page 73 of Exhibit A. II. No. 1, under this heading:

"President Gompers announced the appointment of the following committees:

Committee on President's Report—Andrew Furuseth——"

Now, who is he? A. He is one of the representatives in part of the National Seamen's Union, also at San Francisco. He is in England attending the British Trades Unions Congress as our fraternal delegate.

Q. Wm. B. Wilson? A. Mr. Wilson represented in part the United Mine Workers of America. He is congressman from Pennsylvania.

Q. Do you know his address? A. Somewhere near Williamsport, Pennsylvania.

Q. It is Indianapolis, isn't it? A. No sir.

Q. Is he not one of the officers? A. He is not.

Q. Is he not secretary-treasurer? A. He is not.

Q. Was he at that time, at the time of the convention, an
749 officer of the United Mine Workers of America? A. He was.

Q. What office did he hold? A. Secretary-Treasurer.

Q. With headquarters at Indianapolis? A. Yes sir.

Q. James J. Creamer? A. He represented, in part, the International Association of Machinists. He is now in Nottingham, England.

Q. Where is his home address? A. Richmond, Virginia.

Q. James A. Cable? A. Secretary-treasurer of the Coopers' International Union and represented that organization in part. He is located at Kansas City, Kansas.

Q. Thomas F. Tracy? A. He represented, in part, the Cigar Makers' International Union of America. His home is in Boston.

Q. Robert Glockling? A. President of the Brotherhood of Bookbinders.

Q. Where is his home? A. He represented that organization in part, and his home is in Toronto, Canada.

Q. D. A. Carey? A. Brotherhood of Paper Makers, Wood and Sulphite Makers, and represented that organization in part. He is located in Watertown, New York.

Q. Charles L. Baine? A. He represented in part the Boot
750 & Shoe Workers of America, and is located at Boston.

Q. T. J. Creager? A. He represented the Central Body of Springfield, Massachusetts, and that is his home.

Q. Do you know what union he represented? A. He represented that central body.

Q. Do you know of what organization he is a member? A. I think the International Typographical Union.

Q. Wm. B. McFarlane? A. United Brotherhood of Carpenters and Joiners, in part; he resides in Buffalo.

Q. J. W. Kline? A. He represented in part the Brotherhood of International Union of Blacksmiths, and is located at Chicago.

Q. P. J. McArdle? A. He represented, in part, the Amalgamated Association of Iron and Steel Workers. His home is at Pittsburg, Pennsylvania.

Q. H. J. Conway? A. He represented in part the Retail Clerks' International Protective Association. He has no permanent place of residence. He is on the road in the interest of that organization.

Q. J. C. Shanessy? A. He represented in part the Barbers' International Union. His home is located at St. Louis, Mo.

Q. J. L. Rodier? A. He represented the Washington Central Labor Union, located at Washington, D. C.

751 Q. Now I call your attention to the report of the committee on President's Report to be found on pages 201 to 211 inclusive, of exhibit A. H. No. 1, which commences as follows:

"Delegate W. B. Wilson for the committee on President's Report, presented the following:"

I call your attention particularly to the part on page 207, wherein appears the following:

"Van Cleave's Suit Against the A. F. of L.

"Referred to Special Committee."

Does that committee on President's Report itself directly refer it, or was it again brought before the convention and again referred? A. I am under the impression that the committee simply transferred it or referred it.

Q. The Special Committee being the special committee appointed by you with reference to that subject? A. Yes sir.

Q. Now I call your attention again to page 73 of exhibit A. II. No. 1, with reference to the committees:

"President Gompers announced the appointment of the following committees:

"Committee on Treasurer's Report.—John J. Powell, A. C. Snyder, W. F. Costello, John Young, F. N. Zihlman, Wm. M. Hatch, M. M. Holzager, Thomas Badgley, Geo. Powell, Edward Anderson, J. G. Brown, H. G. Noble, Thos. Clark, E. B. Goltra, John Sheret."

Did you appoint those gentlemen on that Committee? A. I did.

752 Q. And on page 74 I find,

"Committee on Boycotts.—James M. Lynch, James B. Conroy, R. A. McKee, W. A. Engle, Thomas J. Duffy, William Tate-man, A. Bablitz, Timothy Healy, John H. Mahoney, Frank W. Cotterill, John Bradley, Michael Muldoon, A. A. Myrup, F. C. Gengenbach, George G. Griffin."

Did you appoint those gentlemen on that committee? A. I did, sir.

Q. Now I direct your attention again to pages 213, 214 and 215 of exhibit A. II. No. 1, wherein appears the following:

"Delegate Duffy (Frank), for the Special Committee appointed to consider the question of the Buck Stove and Range Company, announced that a report from that committee was ready.

Delegate WILSON (JAMES): I move that that report be made a special order of business for 2:30 o'clock this afternoon.

"After a short discussion, the motion was withdrawn, and Delegate Ramsay, for the Special Committee read the following:

"To the Officers and Delegates of the Twenty-Seventh Annual Convention of the American Federation of Labor:

"Your special Committee, to which was referred the subject matter contained in the reports of President Gompers and of the Executive Council relative to the suit brought by J. W. Van Cleave, of the Buck Stove and Range Company, against the American Federation of Labor and its officers, and all matters in connection therewith, begs leave to report as follows:

753 "We have given the reports, the evidence and all other matters in connection with the suit, our deliberate consideration. There is not the least doubt in our minds but that the suit in question, the scurrilous and scandalous campaign of vilification against the officers of our great movement, the rampant antagonism

of the worst elements of the capitalist class as manifested in Los Angeles and elsewhere, are all of them of a kind, leading up to and the result of the creation of the million and a half dollar War Fund by the Manufacturers' National Association—raised in the effort to weaken and ultimately destroy the effectiveness of our great movement, our movement which protects and advances the interests of the toiling masses of our country against the greed and aggression of those who seek to profit if the toilers were rendered defenseless.

"We have read with the deepest interest the fundamental principles involved in the Van Cleave suit as set forth in President Gompers' report, both under the caption dealing specifically with the suit and also in that part of the report dealing with the 'injunction abuse.' We venture to assert that in no document of a similar kind or in any treatise upon the subject have constitutional guarantees and inherent principles been set forth more clearly, logically and truly than in the President's report.

"There is involved in the Van Cleave Buck Stove and Range Company suit against the A. F. of L. and its officers fundamental rights which strike at the very root of free institutions. The freedom of speech and the freedom of the press are involved; and, as

754 President Gompers so ably and amply sets forth, there are involved the right of man's ownership of himself, his ownership of his labor power, of the wages he receives in return for the exchange of his labor power, and the use to which these wages may be devoted.

"Freedom was never taken from a people by one attack. The process was and is gradual. It is the denial of the rights of one portion of the people at one time, the infringement upon the liberties of another portion at another time, that step by step make inroads into the citadel of freedom and undermine the entire structure.

"So with the injunctive process as typified in the present suit. The attempt to deny to the men of labor the right of the freedom of speech and of the press should not only arouse the resentment of the great masses of our people, but it should appeal strongly to the newspapers and magazines of our time.

"The freedom of the press implies not merely that one shall print and say the things that please. For such a purpose guarantees are entirely superfluous. The constitutional guarantees of the freedom of the press were designed to protect the dissidents, the opponents, in their right not only to protest but to make public that protest in speech and print, in an appeal to the people against existing power and conditions. In it are involved the guarantee of the right to say the things that displease, man being responsible for his utterances and never to be enjoined or prohibited from expressing himself.

755 "The blow in this instance against labor and its official magazine, the American Federationist, may to-morrow in some form be directed against another publication, and though labor may be called upon to bear the brunt and make the contest in the present proceedings, we urge upon the press of our country the consideration of the principle of free speech and free press involved in these proceedings.

"If the rights and the interests of the people are to be protected and defended against modern greed, avarice, chicanery and unlawful power, we can not, and we will not, surrender or yield the exercise of the liberty of speech, the liberty of the press.

"We protest against and repudiate the theory, either expressed or implied, that there exists any direct or indirect property right in workmen other than by the workmen themselves, and in defense of our position upon these great fundamental principles made sacred by history and traditions, we pledge our united efforts.

"We commend the action thus far taken by the President and the Executive Council, in taking the necessary legal steps to maintain our Constitutional rights. You committee believes it is of vital importance that this suit be fought to a successful termination, and, therefore, to raise an available fund for that purpose we recommend that this convention authorize the President and the Executive Council to issue a special assessment of one cent per capita, and that the President and the Executive Council aforesaid be further authorized to make such other and further assessments, should occasion require, as they in their judgment may deem necessary.

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FRANK DUFFY, *Chairman.*

D. G. RAMSAY, *Secretary.*

JOHN P. FREY.

S. L. LANDERS.

JOHN T. SMITH.

JOHN A. MOFFITT.

EMMET T. FLOOD.

J. G. NOYES.

GEORGE FINGER.

W. D. MAHON.

HERE L. SULLIVAN.

JOHN FITZPATRICK.

"Delegate RAMSEY: I move the adoption of the report.

"The motion was seconded and carried by unanimous vote of the convention."

Is that a correct statement of the thing as it occurred? A. Yes sir.

Q. I now direct your attention to page 212 of exhibit A. H. No. 1, report from the committee on Resolutions:

"The Committee recommended the adoption of Resolution No. 49 when amended to read as follows:

"Resolution No. 49.

"By Delegates A. B. Grout, James J. Dardis, of the Metal Polishers, Buffers, Platers, etc.

"Whereas, the Buck Stove and Range Co., of St. Louis, Mo., of which J. W. Van Cleave is president, has attempted to disrupt the Metal Polishers, Buffers, Platers, Brass Moulders, Brass and Silver Moulders Union of North America, and in pursuance of said object has arbitrarily abolished the nine-hour workday, which has existed in factory for over eighteen months, and instituted a ten-hour work day,

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"Whereas, the said J. W. Van Cleave, the president of said Company, is also president of the National Manufacturers' Association, an organization which constitutes a small minority of the manufacturers of the country, and which has declared its hostility against all labor organizations, and it was through the recommendations of the said J. W. Van Cleave that the said Manufacturers' Association has undertaken to raise a fund of \$1,500,000 in 3 years for the alleged purpose of education, but which at the present time is being used under the direction of said J. W. Van Cleave in an attempt to disrupt the labor organizations of the country, especially the Metal Polishers, Buffers, Platers, Brass and Silver Workers' Union of North America, as well as the International Brotherhood of Foundry Employés, with whom his company has a dispute, and,

"Whereas, It has come to our knowledge that the funds of the Manufacturers' Association are being expended under the said Van Cleave's direction for the employment of detective bureaus throughout the United States, who are now conducting a campaign of vilification and slander against the officers and members of labor organizations for the purpose of creating distrust among the entire membership and to deceive and mislead them. Therefore, be it

"Resolved, That each Central body affiliated with the A. F. of L. be and is hereby requested to appoint a committee who shall conduct and manage a 'campaign of education' among the membership affiliated with their central body, as well as dealers in stoves and ranges in their locality and thoroughly inform them of the entire facts of the dispute between the Metal Polishers, Buffers, Platers, Brass and Silver Workers' Union of North America, the Brotherhood of Foundry Employés, also as to the attitude of J. W. Van Cleave and the Manufacturers' Association towards organized labor. Be it further

"Resolved, That the said committee shall report on the first of each month to the officers of the A. F. of L. the progress of the 'campaign of education,' together with a complete list of all dealers in their locality who are handling and selling the product of the Buck Stove and Range Company. Be it further

"Resolved, That all Commissioned organizers of the A. F. of L. shall report on the first of each month to the officers of the A. F. of L. the progress made in 'this campaign of education' by the different committees of the different central bodies in their respective districts, and also render such aid to all committees as lay in their power.

"A motion was made and seconded that the report of the Committee be concurred in.

"The question was discussed by Delegate Grout and Vice-President Duncan.

"The motion to concur in the report of the Committee was carried."

Is that correct? A. I think so.

Q. Now I direct your attention to page 215 of exhibit A, H. No. 1, which reads as follows:

779 "Delegate Ramsay for the Special Committee, read the following supplementary report.

"To the Officers and Delegates of the Twenty-seventh Annual Convention of the American Federation of Labor:

"Your special committee to which was referred the subject matter of the suit of the Buck Stove and Range Company, begs leave to make the following supplemental report:

"Referring to Resolution No. 49, hereto attached, by Delegates A. B. Grout and James J. Dardis, of the Metal Polishers, Buffers and Platers Union, relative to a 'campaign of education,' we fully agree with the purpose of the resolution, but recommend that the details and manner of carrying out the spirit and object of the resolution be left in the hands of the President and Executive Council.

Respectfully submitted,

FRANK DUFFY, *Chairman*.
D. G. RAMSAY, *Secretary*.
JOHN P. FREY.
S. L. LANDERS.
JOHN A. MOFFITT.
JOHN T. SMITH.
JOHN FITZPATRICK.
EMMET T. FLOOD.
GEORGE FINGER.
J. G. NOYES.
W. D. MAHON.
JERE L. SULLIVAN.

"On motion the report of the committee was concurred in."

760 Is that a correct statement of what occurred? A. It is.

Q. Now recurring to the report of the Committee on Resolutions at page 73, you appointed the following committee on resolutions:

"James Duncan"—is he one of the Executive Council and a defendant in this action? A. Yes sir; and lives in Quincy, Massachusetts.

Q. W. D. Ryan. What did he represent? A. United Mine Workers, in part.

Q. He was from Springfield, Illinois? A. Yes sir.

Q. And, I presume, one of the gentlemen who was a delegate to the United Mine Workers' Convention? A. From the United Mine Workers' convention?

Q. No; to it. A. When?

Q. Last January, when the resolution was read? A. I have no means of knowing.

Q. You cannot tell anything about that? A. No sir.

Q. Do you know of any other W. D. Ryan, of Springfield, Illinois, who was a member of the United Mine Workers of North America? A. No; but they have about three hundred thousand members.

Q. Well, do you know of any other? A. No; I do not know of any other.

Q. Now, continuing with this Committee on Resolutions:

761 D. D. Mulcahy? A. He represented the Amalgamated Wood Workers' International Union in part.

Q. And his place of residence? A. I don't know his place of residence, but he is traveling in the interests of his organization. His headquarters are in Chicago.

Q. T. M. Guerin? A. United Brotherhood of Carpenters and Joiners of America.

Q. Where does he live? A. Troy, New York.

Q. W. L. A. Johnson? A. He represented the Brotherhood of Boilermakers and Iron Shipbuilders, in part. He is state Labor Commissioner of Kansas, and his home is Topeka, Kansas.

Q. Edward Hirsch? A. He is president of the Baltimore Federation of Labor, and his home is in Baltimore.

Q. George R. French? A. Mr. French represented in part the Cigar Makers International Union. He is engaged as organizer for the Cigar Makers' International Union of America; Louisville, Ky., at that time was his post office address.

Q. John O'Neil? A. He represented, in part, the Iron Moulders' Union of North America, and his address is Columbus, Ohio.

Q. T. V. O'Connor? A. Represented in part the International Longshoremen's Association, and his home is in Buffalo, New York.

Q. J. T. Wilson? A. Is that James Wilson?

Q. I don't know. Is that the same Wilson that was on the other committee? A. No. J. T. Wilson represented, in part, the International Brotherhood of Maintenance of Way employes. He lived in St. Louis, and has since been killed in a family quarrel.

Q. Edward Cohen? A. Edward Cohen represented the Massachusetts Federation of Labor. He was the man who was killed in the Governor's office by that crank.

Q. Edward W. Potter? A. He represented in part the Amalgamated Meat Cutters and Butcher Workmen.

Q. Of what place? A. Utica, New York.

Q. Jerome Jones? A. He represented in part the Atlanta, Georgia, Federation of Trades, of Atlanta, Georgia.

Q. Lee M. Hart? A. He represented the Theatrical Stage Employees of America.

Q. Residence where? A. Chicago.

Q. John Gorman? A. Represented the Central Labor Union of Indianapolis, Ind. He lives in Indianapolis, Ind.

763 Q. Did you appoint these gentlemen on that committee?
A. I did.

Q. Did they all represent unions that were affiliated to the American Federation of Labor? A. Yes sir.

Q. Now will you explain briefly the process by which the reference of these resolutions was made to the committee. I suppose you did not specially refer each one, but, in brief, what is the process? A. At convenient times during the early part of the convention, a time is set apart for the introduction of resolutions and delegates having resolutions to introduce assemble in front of the presiding officer and offer them, as nearly as I can regulate it with a desire to be impartial in their recognition, and they are handed up and I usually ask what is the purport of the resolution, and make reference of the subject to the appropriate committee and announce it to the

delegate introducing or offering the resolution, and if he should make a preference that his resolution should go to another committee. I usually try to conform to his wishes if my judgment so directs. I then in a scrawl name the committee on the paper with a blue pencil and hand it over to the secretary who numbers it in duplicate. One is retained by the secretary, and the other is referred to the first named member of the committee. Is that quite clear?

Q. I think so. Is that the way the resolutions come to have numbers? A. Yes sir; in rotation.

Q. Well, it appears here that the resolution No. 49, to
764 be found on page- 121 and 122 of the Exhibit A. H. No. 1, being resolution relating to the Buck's Stove and Range Company, was referred to a special committee on Buck's Stove and Range Company and it would appear, then, that it was done in that way?

A. Yes sir.

Q. By that action? A. Yes sir.

Q. In the manner you have described? A. Yes sir.

Q. I now direct your attention to page 230 of Exhibit A. H. No. 1, being a portion of the report of the Committee on Boycotts, as follows:

"The Committee presented the following:

'We Don't Patronize List.'

"We desire to call your attention to the action of the Minneapolis, Minn., Convention on this important matter, and particularly to the recommendations thereon as concurred in by that convention. Conditions have not been materially changed since that time and we therefore recommend that the Executive Council be instructed to remove from the 'We Don't Patronize List' the names of firms in all instances wherein the Executive Council has knowledge that the National or International Union responsible for the boycott are not aggressively pushing the same. We feel that the boycott should only be resorted to after all efforts at adjustment have failed, but when instituted by National, International, State or Central Bodies, it should be made so effective that speedy agreement between the International Union and firms will follow.

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"JAMES M. LYNCH,
JAMES B. CONROY,
R. A. McKEE,
W. A. ENGLE,
THOMAS J. DUFFY,
WILLIAM TATEMAN,
A. BABLITZ,
TIMOTHY HEALY,
JOHN H. MAHONEY,
FRANK W. COTTERILL,
JOHN BRADLEY,
MICHAEL MULDOON,
A. A. MYHUP,
F. C. GENGEBACH,
GEORGE G. GRIFFIN.

Committee on Boycotts."

Now will you state whether or not that is a correct statement of the action taken by the convention, so far as it appears? A. Yes sir.

Q. Now I want to direct your attention to the proceedings of the Minneapolis Convention, 1903, at page 242, being the report of the American Federation of Labor held at Minneapolis, November 12 to 24, inclusive, 1906, and will read to you the following:

"Delegate Flynn, for the Committee, continued the report, as follows:

"At the twenty-fifth annual convention of the American Federation of Labor, held in Pittsburg, attention was called to the
766 large number of firms on the unfair list and the necessity of reducing the same so that we could make our declarations of unfairness effective. This committee finds that not many changes have occurred during the past year and believe that some action must be taken in order to secure the co-operation of the Labor Press. We can't expect the Labor Press to give the space it would require to publish the names of all of these firms, and without publicity the intent of the boycott is defeated.

"We believe that some measure must be adopted to find out if the National, International or Local Unions who are responsible for the boycott are doing their duty to bring about the desired results. Therefore we recommend that the organizations that have firms on the 'We Don't Patronize' list of the American Federation of Labor, beginning January 1, 1907, report every three months to the Executive Council of the American Federation of Labor what efforts they are making to render the boycott effective. Failure to report for six months shall be sufficient cause to remove such boycotts as are not reported on from the 'We Don't Patronize' list of the American Federation of Labor.

HOMER D. CALL,
THOS. H. FLYNN,
WM. PENJE,
H. F. GUDBRANDSEN,
GEO. W. DIGEL,
WM. C. WULFF,
H. J. CONWAY,
J. F. CASEY,
J. W. McCAIN,
P. H. MOLLOY,
HUGO V. KOCH,
A. B. GROUT,
A. McANDREWS,
JAMES LUCAS,
THOS. J. MUMFORD.

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"A motion was made and seconded that the report of the committee be concurred in.

"The question was discussed by Delegate West, who asked if he was expected to submit a brief to the Executive Council giving the facts of the case.

"President GOMPERS: The facts upon which the application is

based must be set forth to substantiate the complaint, in order to allow the Executive Council to ascertain if a cause for complaint really exists.

"The motion to concur in the report of the committee was carried."

Now I will ask you to state whether or not this which I have just read, on page- 242 and 243 of the Proceedings of the Minneapolis Convention of 1906 is the portion referred to in the report of the committee found on page 230 of Exhibit A. H. No. 1? A. I cannot say. I do not know what was in the mind of the committee to definitely answer your question.

Q. What is your impression about it? A. My impression is that it is.

Q. Now, it would appear from Exhibit A. H. No. 1 that the session of the convention at which this report of the committee was adopted, as shown, was held on the 19th day of November, 1907, that appearing from pages 224 to 231 inclusive of said Exhibit A. H. No. 1. Have you any doubt that that action was taken on that date? A. No sir.

Q. Now it appears from this Exhibit A. H. No. 1 that the convention came to a close on November 23, 1907. Did the Executive Council meet during the session of the convention? A. At Norfolk?

Q. At Norfolk? A. I do not know. I think not.

Q. Did they hold a meeting after the convention came to a close? A. Yes sir.

Q. At that meeting was any action taken to carry out resolution number 49 and the resolution contained in the supplementary report which your attention has been directed during this examination? A. I think not.

Q. I call your attention to the following communication addressed to all organized labor and friends, dated Washington, D. C., November 26, 1907, being exhibit V, and found on page 257 of transcript of the Record in the Court of Appeals in the District of Columbia, the page in the original record being 442, said letter reading as follows:

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"(EXHIBIT V.)

"American Federation of Labor.

"Executive Council,

President, Samuel Gompers.

[SEAL.] Secretary, Frank Morrison.

Treasurer, Jno. P. Lennon, Bloomington, Ill.

"First Vice-President, James Duncan, Hancock Bldg., Quincy, Mass.

Second Vice-President, John Mitchell.

Third Vice-President, James O'Connell, 402-407 McGill Bldg., Washington, D. C.

Fourth Vice-President, Max Morris, P. O. Box 1581, Denver, Col.

Fifth Vice-President, D. A. Hayes, 930 Witherspoon Bldg., Philadelphia, Pa.

Sixth Vice-President, Daniel J. Keefe, 406-407 Elk's Temple Bldg., Detroit, Mich.

Seventh Vice-President, Wm. D. Huber, State Life Bldg., Indianapolis, Ind.

Eighth Vice-President, Jos. F. Valentine, Commercial Tribune Bldg., Cincinnati, Ohio.

Long Distance Telephone Main 3871-2.

Cable Address 'Afel.'

423-425 G. St. N. W.,

WASHINGTON, D. C., November 26, 1907.

To All Organized Labor and Friends:

"You undoubtedly are aware of the fact that the interest
770 of the Foundry Employes and Metal Polishers have been greatly injured on account of the hostile action of the Buck's Stove and Range Company of St. Louis, of which Mr. Van Cleave is president and he is also president of the National Association of Manufacturers.

"As you are well aware, so inimical to the welfare of labor was the Buck's Stove and Range Company's management that the organization concerned felt obliged to declare the product of that company unfair. The workmen's organization appealed to the American Federation of Labor to endorse its action. After due investigation that endorsement was given and is still further affirmed. The circumstances leading to this action are so widely known that they need not be here recounted.

"Mr. Van Cleave, for the Buck's Stove and Range Company, brought suit against the American Federation of Labor and its Executive Council and has petitioned the court for an injunction to prohibit the American Federation of Labor from in any way advising organized labor and its friends of the fact that the Buck's Stove and Range Company is unfair to its employes and for that reason its name is published upon the American Federation of Labor 'We Don't Patronize list.'

The court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove and Range Company, upon the 'We Don't Patronize List.' Should we be enjoined by the court
771 from doing so, the merits of the case will not be altered, nor can any court decision take from any man the right to bestow his patronage where he pleases.

Mr. Van Cleave, president of the Buck's Stove & Range Company, also president of the National Association of Manufacturers is raising a war fund of one million and a half dollars to crush organized labor. You already know the attempts that have been made with a part of that money to assassinate the characters of the active men in the labor movement to corrupt them and buy them over, much of which was exposed at the recent Norfolk convention of the

American Federation of Labor and more of which will be published in a pamphlet about to be issued.

"Bear in mind that you have a right to decide how your money shall be expended.

"You may or may not buy the products of the Buck's Stove and Range Company.

"There is no law or edict of court that can compel you to buy a Buck's stove or range.

"You cannot be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove and Range Company's products of its unfair attitude toward its employes and ask them to give their sympathy and aid in influencing the Buck's Stove and Range Company to deal fairly with its employes and come to an honorable agreement with the union primarily at interest.

"It would be well for you as central bodies, local unions and individual members of organized labor and sympathizers to call on business men in your respective localities, urge their sympathetic cooperation and ask them to write to the Buck's Stove & Range Company of St. Louis, urging it to make an honorable adjustment of its relations with organized labor.

"Act energetically and at once. Report the result of your effort to the undersigned.

"SAML GOMPERS,

President American Federation of Labor.

Attest:

FRANK MORRISON, *Secretary.*

"By order of the Executive Council of the American Federation of Labor."

Did you prepare that circular? A. I did.

Q. And at the date it bears? A. Yes sir; and that reminds me that my answer to your other question as to whether the Executive Council had considered the matter, was incorrect. I was under the impression that that matter was discussed at the meeting in January of the Executive Council. I want to correct my former answer by saying that that was considered.

Q. Then it was, and you were instructed to take that action? A. To take that action substantially, not in the exact terms. The language is my own.

Q. Now, Mr. Gompers, was currency given to that circular to any extent? A. It was sent to the unions affiliated to the American Federation of Labor, national, state and local.

Q. To the number of how many? To all the unions? 773 To the 27,000 unions? A. No, no.

Q. Oh, yes. A. Well, if you are a witness to contradict me, all right.

Q. I merely state what Mr. Morrison stated, and what is stipulated in the original record, and which I believe is a fact, but if it is not

Mr. MORRISON (interrupting): I will say I looked up that question for you as to the number. I have got the data.

Mr. DAVENPORT: It was sent out?

Mr. MORRISON: It was sent out, yes.

By Mr. DAVENPORT:

Q. Have you any knowledge about the number? A. No.

Q. But you knew that it was sent out generally? A. I directed that it be generally sent out.

Q. Now have you any data by which you can determine the date of the sending out of that circular? A. Oh, within a week or ten days—that is in accordance with the number that were sent out.

Q. I looked myself among the items in the expense account for the month of December to see whether I could locate the date. The nearest that I could ascertain in the account of expenses for the month of December, 1907, was on the date of the 20th, which I presume would merely show when they were paid for: "Addressing, stamping, folding and mailing circulars, Buck's Stove & Range Company's case." That probably refers, does it not, to this circular? A. It may; I do not know.

Q. And they were sent out between the 26th of November and the 20th of December? A. More than likely. Equal candor on the part of the Manufacturers' Association in publishing their expense account would not be improper.

Q. Do not associate me with the Manufacturers' Association, for I have no connection with it, whatever. A. Secretary Morrison advises me there were 25,000 of these circulars printed and distributed.

Q. Among the unions? A. Yes sir.

Q. One being sent to each of the various local unions? A. Yes sir.

Q. Now let us pause in our career and revert to the court's proceedings for a moment. While the convention was in session at Norfolk, proceedings were had in the Supreme Court of the District of Columbia on the petition of the Buck's Stove & Range Company against the American Federation of Labor, yourself and others included as defendants, for the purpose of determining whether or not a temporary injunction should be issued, were they not? A. Yes sir.

Q. And that it may appear in chronological order, it is stated in your report to the convention that the matter was to come up on the 8th of November, and it appears in the report of the Executive Council to the convention that it was postponed until the 14th of November. Your attention has been already directed to the

775 fact that on the 13th of November you executed a verified amended answer to the petition in that case and forwarded the same to your counsel for use on the hearing. Is that substantially a correct statement of the order of events? A. I think so.

(Thereupon, at five o'clock p. m., a recess was taken until eight o'clock p. m.)

ALBERT HARPER, *Examiner*.

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THURSDAY EVENING, *September 17, 1908.*

Met pursuant to taking of recess, at eight o'clock p. m.

Whereupon SAMUEL GOMPERS resumed the stand for further examination.

By Mr. DAVENPORT:

Q. Are you acquainted with A. B. Grout? A. Yes sir.

Q. The gentleman who introduced this resolution number 49? A. Yes sir.

Q. (Reading:) "Delegate- A. B. Grout and James J. Dardis, of the Metal Polishers' Union." A. Yes sir.

Q. Do you know whether or not he is the president of the International Metal Polishers' union? A. I do. He is.

Q. With headquarters in Cincinnati, Ohio? A. I am not sure.

Q. Is that the gentleman whose connection with the boycott of the Buck's Stove and Range Company is made the subject matter of the complaint in this action? A. I would like to hear that question again.

The stenographer repeated the question as above recorded.

By Mr. DAVENPORT:

777 Q. You read the original complaint in the action? A. I did.

Q. And you know that Mr. Grout was a member of the convention held at Minneapolis, and one of the committee on boycotts that referred to resolutions? A. Yes sir.

Q. Placing the Buck's Stove and Range Company on the unfair list? A. No such resolution was passed.

Q. Well, referring the matter to the Executive Council for action? A. Yes sir.

Q. And in regard to which there are allegations in the original complaint in this action? A. I do not recall to which features of the complaint you refer.

Q. You read the original complaint in this action? A. I did, but that was a long time ago.

Q. And you do not connect the two? A. I do not.

Q. You have been president of the American Federation of Labor for many years? A. Yes sir.

Q. And have presided at its conventions? A. Yes sir.

Q. And it is the usual thing to have the proceedings of the convention carefully prepared and published? A. I should say that the secretary of the convention is better qualified to answer that question than I am, at least the first part of your question, that is, as to
778 its careful preparation. As to its publication, I can answer that.

Q. That is the usual custom, that you print and publish the proceedings? A. Yes sir.

Q. And that has been the custom for many years? A. Yes sir, since the federation was organized.

Q. Some twenty-five years or more ago? A. 1881.

Q. And when these proceedings were had at the Norfolk convention, in 1907, as reported in exhibit A. H. No. 1, you expected the

usual course would be pursued with regard to the doings of that convention, did you not? A. Certainly; that is a record of the history of the organized labor movement.

Q. Yes, and you expected that would be done? A. Yes sir.

Q. And that they would be reported and published? A. Published?

Q. Yes. A. I did not catch what you intended to inquire about in regard to reporting. They would be printed and published.

Q. By the direction of the federation? A. There is no resolution to that effect made in each convention. It is a standing practice.

Q. Yes. I looked for it in the constitution, and I did not see it, but I suppose it is a standing practice. A. A standing practice and a standing rule.

Q. After the convention adjourned, what steps were taken toward publishing a report of the proceedings? A. The proceedings
779 of the convention are printed daily in pamphlet form, and placed upon the desks of the delegates, at the following morning session. Sometimes inaccuracies creep in on account of the hurried printing and proof reading. At a convention such inaccuracies, which may have crept in, are corrected by the secretary himself, and they are then reprinted from the corrected type and bound into a volume such as the one you hold in your hand, and which is marked Exhibit A. H. No. 1.

Q. By whom are the arrangements made for the printing? A. By the secretary.

Q. Who makes the contract as to the price? A. The secretary.

Q. Do you have anything to do with it? A. In an advisory capacity, none other.

Q. By whom were they printed this year?

Mr. RALSTON: You mean last year?

Mr. DAVENPORT: Yes, I mean 1907.

Q. Were they printed by the National Tribune Company? A. I think the uncorrected type was brought here and printed by that company. I am not sure as to the details of that, sir.

Q. And at what time was the completed volume received? A. I could not tell you, sir.

Q. Do you know about when? A. No sir, except that it was about the latter part of the year or the early part of this year, I could not tell you, sir.

780 Q. It was stated by Mr. Morrison that he was informed by his assistants there that it was received on the 31st of December, 1907. A. Well, if he says so, I have no doubt as to that being correct.

Q. What was usually done with those proceedings, when published in pamphlet form, book form, such as Exhibit A. H. No. 1, to whom were they usually sent? A. One copy to each delegate to the convention; one copy to each affiliated International Union; and one copy to universities, libraries, colleges, schools of learning and others whom I cannot recall.

Q. And to organizers? A. No, seldom. I am not aware that they are. Then, to those who desired to purchase copies, and usually they are held as a record of the history of the movement for the year.

Q. Did you know how large an edition was printed? A. I do not.

Q. Mr. Morrison stated that there were seven thousand. A. If so stated, I have no doubt that that is correct.

Q. And that four thousand copies had been distributed. A. I have no doubt as to the accuracy of that statement, if he made it.

Q. The expense of printing a document of this kind in such vast quantities is very considerable, I take it, is it not? A. I also so take it.

Q. And it is paid for out of the funds of the Federation?
751 A. It is.

Q. On warrants drawn by yourself on the treasurer and countersigned by the secretary? A. I think that—for your information, as well as for the record, an explanation of the method by which the warrants are authorized, the payments are authorized, would be helpful, if I may make it.

Q. I really do not care so much for the history as that under your constitution payments are made on warrants drawn by you upon the treasurer and countersigned by the secretary? A. Yes sir.

Q. And that is the way the bills for the printing were paid? A. Yes sir.

Q. What steps, if any, did you take to prevent the distribution of these copies? A. None.

Q. You expected the usual course would be pursued, did you not? A. I did.

Q. And that they would contain the various records, resolutions and action thereon, to which I have called attention this afternoon, by the convention? A. I had no idea at all, it never occurred to me that the terms of the injunction would apply to the reports containing the history of the conventions of the American Federation of Labor. I took no steps to prevent the distribution of the printed
752 official proceedings of the Norfolk convention other than which I have already stated to you. My admonition to the employes of this office is the thing to which I refer.

Q. You mean Mr. Morrison? A. Everybody.

Q. Mr. Morrison? A. No; Mr. Morrison was equally enjoined with me.

Q. So you took no steps to prevent the circulation of this, knowing that it contained these various reports and resolutions, and the action of the convention thereon? A. Yes sir, that is right.

Q. Now, Mr. Gompers, were you informed, or did you acquaint yourself in any way with the result of the hearings before Judge Gould while you were absent, by inquiry of anyone, counsel or anyone else? A. I have no knowledge of having been apprised during my absence from headquarters of that fact other than—

Q. This is while you were at Norfolk. You knew that the court was to give a hearing on the matter on the first of November, did you not? A. I think I did, sir.

Q. Did you know that affidavits had been prepared in behalf of defendants, and presented to the court? A. I knew that they were prepared.

Q. For presentation? A. For presentation.

Q. And you supposed they would be presented? A. Yes sir.

Q. And you were familiar with the allegations of the complaint to the answer, the amended answer, to which you had affirmed, which you had verified? A. I knew of it.

783 Q. And you expected that after those matters were presented to the court, wherein the claims of the plaintiffs and defendants were presented, both in the pleadings and in the affidavits, and in the arguments of counsel, that the court would render its decision thereon, did you not? A. I suppose the court would.

Q. And when in this circular, dated November 26th, you stated that the court would soon give a decision on the legal issue which had been raised, you expected such a decision in the very near future, did you not? A. Yes sir.

Q. In each issue of the Federationist following the 19th of August, to-wit, the September, October, November and December numbers, you had continued to publish the Buck's Stove and Range Company in the "We Don't Patronize List," had you not? A. I had.

Q. Notwithstanding the allegations in the complaint with reference to the injury which the Buck's Stove and Range Company had received and was threatened with by reason of the acts complained of? A. That is not a question.

Q. See if it is not. Did you note the rising inflexion of my voice at the close?

The question was repeated by the stenographer as above recorded.

784 By Mr. DAVENPORT:

Q. You continued to publish the name of the Buck's Stove and Range Company in the Unfair list, had you not?

Mr. KELSTON: Has that anything to do with the contempt we are trying here?

Mr. DAVENPORT: Most decidedly.

A. Not on the Unfair list; on the "We Don't Patronize List." And the simple fact that an allegation is made by a plaintiff does not constitute a finality in any proceedings.

Q. You have a tendency to run off into other topics. The question was one that permitted of a categorical answer, yes or no. A. I answered it categorically, and your statement that it was contained as a statement in the complaint made it necessary for me to answer as I did.

Q. With reference to this proper or improper characterization of this list as an unfair list, let me call to your attention an extract from the report of the proceedings of the twenty-sixth annual convention of the American Federation of Labor in 1906, at pages 83, 84 and 85, to be found in the original record in this case at page 1038, and in the transcript of record in the Court of Appeals at page 595, which reads as follows:

"We Don't Patronize List."

785 "Applications to place the following firms upon the unfair list of the American Federation of Labor have been made to and approved by the Executive Council from October 1, 1905, to October 1, 1906."

And to the extract from the report of the proceedings of the twenty-fifth annual convention of the American Federation of Labor in 1905, pages 79, 80 and 81, to be found at page 1041 of the original record and page 597 in the transcript of record in the Court of Appeals, which reads as follows:

"We Don't Patronize" List.

"Applications to place the following firms upon the unfair list of the American Federation of Labor have been made and approved by the Executive Council, from October 1, 1904, to October 1, 1905."

And to the extract from the report of the proceedings of the American Federation of Labor for the year 1904, pages 85, 86 and 87, to be found on the 1044 page of the original record, and at page 599 of the transcript of record in the Court of Appeals, which reads as follows:

" 'We Don't Patronize' List.

"Applications to place the following firms upon the unfair list of the American Federation of Labor have been made and approved by the Executive Council, from October 1, 1903, to October 1, 1904."

And to the extract from the Report of the proceedings of the American Federation of Labor for 1903, pages 94, 95, 96, to be found at page 1048, on page 602 of the transcript of the record in the Court of Appeals in the District of Columbia in this case, as follows:

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" 'We Don't Patronize' List.

"Applications to place the following firms upon the unfair list of the American Federation of Labor have been made and approved by the Executive Council from October 1, 1902 to October 1, 1903;"

and to the extract from the proceedings of the American Federation of Labor for 1902, pages 59, 60 and 61, to be found at page 1053 of the original record and page 605 of the transcript of record of the Court of Appeals in this case, which reads as follows:

"Applications to place the following concerns upon the *Unfair List* of the American Federation of Labor have been made and approved by the E. C. from November 1, 1901, to October 1, 1902;"

and to the extract from the report of the proceedings of the American Federation of Labor 1901, pages 168, 169 and 170, being page 1058 of the original record, and page 609 of the transcript of record in this case, which reads as follows:

"Application to place the following concerns upon the *unfair list* of the American Federation of Labor have been made and approved by the Executive Council from November 1, 1900 to November 1, 1902;"

and to the extract of proceedings of the American Federation of Labor, pages 73, 74 and 75, to be found at page 1063 of the original record in this case, and page 612 of the transcript of record in the Court of Appeals:

"UNFAIR LIST.

"The Executive Council approved the applications to place the following named concerns upon the 'We Don't Patronize' list of the A. F. of L., and the same are submitted for the indorsement of this convention;"

All of which are signed by yourself and your associates, as members of the Executive Council for each year; and did you, after the institution of the suit, continue to publish the name of the Buck's Stove and Range Company in the list which has been thus characterized? A. As the "We Don't Patronize" list?

Q. And the unfair list? A. No sir.

Q. What? A. No sir. I say that the use of the term "unfair" had become inaccurate in characterization, even when I myself used it it was an improper characterization.

Q. Well, did you continue to publish it in the same list in which it had appeared theretofore?

Mr. RALSTON: The list changes every month.

Mr. DAVENPORT: It is not necessary for so learned a gentleman as counsel on the other side to instruct so capable a witness as Mr. Gompers.

A. I continued to publish it on the "We Don't Patronize" list of the American Federationist.

By Mr. DAVENPORT:

Q. The list which is published and has been published for many years? A. The "We Don't Patronize" list, yes sir.

Q. The decision of Justice Gould was granted on the 17th day of December, 1907, and very great publicity was given to it, was it not, in the daily press? A. Publicity to what?

Q. His decision, his opinion and decision. You yourself read it in the papers, did you not? A. I think I did.

Q. The Washington papers? A. I think not.

Q. Did you not see it was published that very day in the Washington papers, by our enterprising newspaper men? A. I don't think I was here.

Q. You were not? A. And if so, I did not read it in the Washington papers.

Q. You did not at any time? A. I don't know.

Q. You read it and familiarized yourself with the contents, did you not and cause a copy of the decree to be published? A. That

is a copy that I received from either our attorneys or from you. I did not publish the newspaper accounts.

Q. You were familiar with the fact that that matter had been brought to the attention of his Honor by yourself in your answer, and by your attorneys, and the construction which he put upon the list?

Mr. RALSTON: Mr. Davenport, you have asked all those questions so long ago that you have forgotten them.

By Mr. DAVENPORT:

Q. I call your attention to this portion of it:

789 "It is true that when this body acted it did not use the word 'boycott,' but the more euphemistic term of 'We Don't Patronize'."

I read from the opinion of Mr. Justice Gould, found on page- 109 and 110 of the original record in this case, in the Supreme Court of the District of Columbia, and on pages 92 and 93 of the transcript of record that we have here. Was your attention called to the point that his Honor had explicitly and directly passed upon that point, quoting from the report to the Twenty-fifth Annual Convention, which is as follows, and adopted by the convention:

"At the Twenty-fifth annual convention of the American Federation of Labor, held at Pittsburg, attention was called to the large number of firms on the unfair list and the necessity of reducing the same so that we could make our declarations of unfairness effective.

"This committee finds that not many changes have occurred during the past year, and believes that some action must be taken in order to secure the cooperation of the labor press. We can't expect the labor press to give the space it would require to publish the names of all these firms, and without publicity the intent of the boycott is defeated.

"We believe that some measure must be adopted to find out if the national, international or local unions who are responsible for the boycott are doing their duty to bring about the desired results. Therefore we recommend that the organizations that have firms on the 'We Don't Patronize' list of the American Federation of Labor, beginning January 1, 1907, report every three months to the Executive Council of the American Federation of Labor what
790 efforts they are making to render the boycott effective. Failure to report for six months shall be sufficient cause to remove such boycotts as are not reported on from the 'We Don't Patronize' list of the American Federation of Labor."

After quoting this report which had been put in evidence, the Judge proceeded:

"It will be noticed that here the terms 'Unfair,' 'We Don't Patronize' and boycott are used interchangeably. In the affidavit of one of the defendants in this case, he speaks of the resolution introduced at the Minneapolis convention relative to a dispute 'between one of the organizations affiliated with the American Federation of Labor' and plaintiff, as follows:

"This resolution sought the endorsement of the American Federation of Labor in the declaration of a boycott by that organization, the International Brotherhood of Foundry Employees."

Now, Mr. Gompers, notwithstanding the construction which the court had put upon this list in those terms, "We Don't Patronize" as being synonymous with "unfair," and as a boycotting term, and knowing that on that point he had decided so, did you continue to publish this concern in that list until, as you understand it, as you say, the injunction became actively operative? A. Yes sir.

Q. And did you publish it in that way to carry out the same opinion for which it was placed there originally, the same purpose for which it was placed there originally? A. Yes sir.

Q. Was it not one of your contentions, and the contention of the attorneys in your behalf in that case, that you had the constitutional right to publish anything that you saw fit and to speak anything that you saw fit to say? A. Subject to punishment for libel or treason, if the publication was libelous or treasonable.

Q. I want to have my question completed. In carrying out the combination to boycott the Buck's Stove and Range Company. That is also part of my question.

The question was repeated by the stenographer as above recorded.

Mr. DAVENPORT: And I will add, and that it was beyond the power of the court by injunction to prevent such publication, and such oral statements.

The question was repeated by the stenographer as follows:

"Q. Was it not one of your contentions, and the contention of the attorneys in your behalf in that case, that you had the constitutional right to publish anything that you saw fit, and to speak anything that you saw fit to say in carrying out the combination to boycott the Buck's Stove and Range Company, the plaintiff in that action, and that it was beyond the power of the court by injunction to prevent such publications, and such oral statements?"

A. Our contention was that any such injunction was an infringement and an invasion of the constitutionally guaranteed right of free speech and free press.

Q. Did you understand that precisely the opposite was contended for by the plaintiff and its attorneys before Justice Gould? A. I think so.

Q. And that the question was submitted to Justice Gould for decision one way or the other upon that point? A. We had no alternative.

Q. Well, then it was so submitted? And did you not know that on that point also Justice Gould decided against your contention, as follows:

(Page 107 of the original record, and page 90 of the transcript of the record in this case:)

"It was next contended on behalf of defendants that to restrain the publication of plaintiff's name on the 'Unfair' or 'We Don't Patronize' list would be an infringement on their constitutional rights and

an assault upon the freedom of the press; or that if plaintiff had any redress for such publication it was by action for the libel, and that equity will not enjoin the publication of a libel. All this would have merit, if the act of defendants in making such publication stood alone, unconnected with other conduct both preceding and following it. But it is not an isolated fact; according to the allegations of the bill and the supporting affidavits it is an act in a conspiracy to destroy plaintiff's business, an act which has a definite meaning and instruction to those associated with defendants and an act which is the basis for conduct on the part of defendant's associates, which unlawfully interferes with plaintiff's right of freedom to trade with whom he pleases. The argument of counsel is fully answered by the

793 language of Mr. Justice Holmes in the case of *Aikens v. Wisconsin*, 195 U. S., 194: 'No conduct has such an absolute privilege as to justify all possible schemes of which it may be a part. The most innocent and constitutionally protected of acts or omissions may be made a step in a criminal plot, and if it is a step in a plot, neither its innocence nor the constitution is sufficient to prevent the punishment of the plot by law.'?"

A. I do that, and it is for that reason that we are appealing this decision to a higher court.

Q. A very proper course to take. A. And of which we are availing ourselves.

Q. Yes. There was your remedy, and that was the proper course for you to take.

Upon the allegations of the complaint and the answers, and upon the testimony, did you not know that there were these two questions presented to the court for its action, and that the court proceeded to pass upon both those questions, as the foundation for issuing its restraining order, after having recited all the allegations of the complaint and the admissions of the answers, and the affidavits:

"There appear two general questions upon this record: First, has the plaintiff shown the existence of an unlawful combination and conspiracy to destroy his business; and, second, does the testimony so connect the defendants, or any of them, with such combination and conspiracy as to make them amenable to the injunctive power of this court."

"Upon the first proposition there is little room for argument or discussion."

794 Then follows an examination of the testimony, and winding up with the conclusion, that the existence of such an unlawful combination and conspiracy to destroy the business of the plaintiff has been established, and he made it the basis of his order.

Now did you understand that that question had been presented to the Judge, contested in the court by you, by the defendants and the plaintiff, and that the decision of the point was in favor of the plaintiff? A. Only in a general way.

Q. You understood it in a general way? A. Yes sir.

Q. That it was so? A. Yes sir.

Q. And, second, that upon the second point, namely, does the

testimony so connect the defendants, or any of them, with such conspiracy as to make them amenable to the injunctive power of this court; and after fully considering that point, he proceeded to say:

"The record in this case leaves no doubt that plaintiff has been and still is the object of a 'Boycott,' using that in the most obnoxious sense, viz., an unlawful conspiracy to destroy its business; such a conspiracy as has received the condemnation of every Federal and State court in the country before which it has been brought for criminal action, legal redress, or equitable injunction. This conspiracy originated, as I have stated, in the action, by Metal Polishers' Local No. 13 in St. Louis, in the fall of 1906, a body federated with the defendant American Federation of Labor through the
795 International Metal Polishers, etc., Union. It was advanced in accordance with the procedure of the said Federation until in March, 1907, it received the active endorsement of the Executive Council, the controlling body of said Federation. It is true that when this body acted it did not use the word 'Boycott,' but the more euphemistic terms of 'Unfair' and 'We Don't Patronize.'

"But an examination of the record convinces me that whatever the term used, the effect intended was what naturally happened, viz. a boycott."

So that on the second point, did you learn that Mr. Justice Gould, on this litigated point in the court, had decided adversely to the contention of the defendants and their counsel? A. Yes sir. I respectfully differ from the court in his definition of what is more euphemistic.

Q. You are privileged to differ and all that, but the question is what you can do when you differ. A. Exercise my rights.

Q. We are concerned with these proceedings. Notwithstanding your knowledge of that decision, you still endeavored to get out into circulation the January number of the Federationist before the decree would become, as you understood it, operative? A. The enforcement of the decree was made dependable upon the bond or undertaking having been made and approved by the court, and I believed, and was so advised by my counsel, that it was inoperative until the undertaking was made.

796 Q. Well, unless that is preliminary to an answer directly to the question—— A. And I continued the name of the Buck's Stove and Range Company upon the 'We Don't Patronize' list in the January issue of the American Federationist. Is that an answer?

Q. With the knowledge that upon that point the court had decided adversely to you? A. With the knowledge that the decree——

Q. I am talking about the opinion. A. The opinion——

Q. A decision? A. A decision was dependable upon the undertaking being made.

Q. Do you not draw and perceive a distinction between the opinion and decision, and the decree of the court, which is formally entered for the purpose of securing the rights which the court has

adjudicated the plaintiff is entitled to? A. An opinion of a court, as I understand it, is entirely subordinate to the decree. The decree gives substance and life to the opinion.

Q. Of course the very object of entering the order was to protect the plaintiff in the enjoyment of the rights which the court had found it had from the acts which the court found had been and were threatened to be done in violation of those rights by the defendants. Now, the question that I want to put to you, and I would like to have as direct and specific an answer to it as possible, is whether, after you knew that the court had decided as to the rights of the plaintiff and the wrongful acts of the defendants—— A. The alleged wrongful acts——

Q. (Continuing:) Acts that the court had found had been done unlawfully and to injure the plaintiff's rights, as the basis for making the order which it had announced that it would sign, and after having signed that order based upon those allegations, did you, with full knowledge of those facts, do the thing which you had previously been doing? A. If the Buck's Stove and Range Company had not made the undertaking neither the opinion nor the decree would have had any binding force upon anyone.

Q. That is far, far from being an answer to the question.

The question was repeated by the stenographer as above recorded.

A. Hence I continued the name of the Buck's Stove and Range Company upon the "We Don't Patronize" list of the January issue of the American Federationist, which was printed before that time.

Q. Do I correctly understand you, that you did this with full knowledge of the decision? A. Yes sir.

Q. On those points? A. Yes sir.

Q. Now, Mr. Gompers, did you have a meeting of the Executive Council of the American Federation of Labor in the month of January, 1908? A. I think so.

Q. Here in the city of Washington? A. I think so, yes sir.

Q. I call your attention to the March number, 1908 of the American Federationist, at page 217, under the heading "Official A. F. of L. Executive Council meeting, Washington, D. C., January 20-25, 1908."

"Executive Council called to order January 20, at ten o'clock, President Gompers in the chair. Present, Gompers, Duncan, O'Connell, Morris, Huber, Valentine, Lennon, Morrison, Hayes and Keefe.

"On motion it was decided that sessions be held from 9 to 12, 2 to 5 and 8 p. m."

Do you recall that those gentlemen were all present, all there but Mr. Mitchell? A. I don't recall it, but I think that is an accurate statement.

Q. Did you notice a circular of November 26, 1907, to which your attention has been directed, was published in the fall in the Journal of the United Mine Workers of North America, on December 5th, at the 4th page, 5th column? A. I don't know the column or the date of the paper, but I remember seeing it in one of the issues.

Q. I call your attention to these minutes of the A. F. of L. Executive Council meeting in the issue of March 8, page 217, as follows:

"President Gompers' Report.

"Executive Council, A. F. of L.

"COLLEAGUES: I beg to submit herewith report of some of the general work performed, also that performed in accordance with the instructions of the Norfolk convention and the E. C. in Norfolk 799 folk after the adjournment of the convention.

"For brevity, the work of carrying out the instructions of the convention is referred to herein by the number of each resolution, as noted in the official printed proceedings."

Then on page 218, as follows:

"Resolution No. 49—In conformity with the provisions of this resolution, circular was issued on November 26th to all affiliated organizations in regard to the suit brought by Mr. Van Cleave for the Buck's Stove and Range Company against the A. F. of L., its E. C., and others. The E. C. has been kept advised from time to time what steps have been taken in this matter."

Do you recall making such a report? A. Yes sir.

Q. To the Council? A. Yes sir.

Q. Your colleagues? A. Yes sir.

Q. And did any of them express any dissent from it? A. Not that I can recall.

Q. As you understood it, they approved of your action? A. My report is not subject to approval or disapproval; it is simply a report.

Q. You report, but you report, I suppose, as—shall I say a subordinate to a superior? A. That term will do, but I might say as an equal to an equal.

Q. And you were the executive of that Executive Council 800 in carrying out that action? A. Yes sir.

Q. And did the Council dissent from your action in any way, or did it repudiate it? A. I am not aware that it did.

Q. Did you understand that it met with their approval? A. I understood nothing of the kind, either one way or the other. I want to say that in my opinion Mr. Mitchell was not at the Executive Council meeting in Norfolk.

Q. No, Mr. Mitchell was not there: Mr. Mitchell on this very day was following his functions in the convention of the United Mine Workers, at Indianapolis. A. I mean at Norfolk.

Q. I understand that, but what pertinency has that observation? A. Simply to illuminate it as to the facts.

(An informal conversation followed.)

The WITNESS: Suppose I testify to that directly.

Mr. DAVENPORT: Very well, go ahead.

The WITNESS: The convention of the American Federation of Labor authorized the assessment of one cent upon each organization, affiliated, of one cent upon each member, and gave authority to the Executive Council to levy another additional assessment, if that be

necessary, all to be used in the legal defense of the American Federation of Labor and the Executive Council in this litigation brought against us by the Buck's Stove and Range Company; and at the Executive Council meeting in January, I think it was, this subject of raising additional funds for our legal defense was discussed, and the Executive Council deemed it more advisable to issue an appeal for voluntary contributions than the levying of an additional assessment. Is that what you want?

By Mr. DAVENPORT:

Q. Suppose we put this in the record, now. On page 214 of of Exhibit A. H. No. 1 appears the following report from the committee, which was adopted:

"We commend the action thus far taken by the President and the Executive Council, in taking the necessary legal steps to maintain our Constitutional rights. Your committee believes it is of vital importance that this suit be fought to a successful termination, and, therefore, to raise an available fund for that purpose we recommend that this convention authorize the President and the Executive Council to issue a special assessment of one cent per capita, and that the President and the Executive Council aforesaid be further authorized to make such other and further assessments, should occasion require, as they in their judgment may deem necessary."

Signed by Frank Duffy, Chairman; D. G. Ramsay, Secretary, and the other members of the committee on the Buck's Stove and Range Company's case. Following that vote, did the Executive Council levy such an assessment? A. The Executive Council did, yes sir.

Q. And collected the amount, or received the amount, substantially all? A. No, the secretary received all money.

Q. Yes, I understand. But the secretary did, on behalf of the American Federation of Labor; and at this January meeting of the Executive Council did the Council take further action along that line? A. I volunteered the statement, and I am perfectly willing that that statement shall go as my answer, because it is an answer.

Q. You can answer very briefly yes or no on the subject. A. Yes.

Q. Did you draft this circular entitled, "An Urgent Appeal in Defense of Free Press and Free Speech"? (Referring to Exhibit A. H. No. 2). A. I did.

Q. Did you submit it to the Council? A. I did not.

Q. It was done after the Council adjourned? A. I think it was.

Q. Mr. Gompers, had you written an editorial to appear in the American Federationist for February, 1908, on the subject of this decision of Justice Gould? A. Will you tell me the title of it?

Q. An editorial by Samuel Gompers, beginning, "Justice Gould, of the Supreme Court of the District of Columbia, issued an injunction December 17, 1907", and so forth? A. Yes sir.

Q. I will read this:

"Editorial.

By Samuel Gompers.

"Free Press and Free Speech Invaded by Injunction Against the
A. F. of L.—A Review and Protest.

803 "Justice Gould, of the Supreme Court of the District of Columbia, issued an injunction, on December 18, 1907, against the American Federation of Labor and its officers, and all persons within the jurisdiction of the court.

"This injunction enjoins them as officials, or as individuals, from any reference whatsoever to the Buck's Stove and Range Co.'s relations to organized labor, to the fact that the said company is regarded as unfair; that it is on an 'unfair' list, or on the 'We Don't Patronize' list of the American Federation of Labor. The injunction orders that the facts in controversy between the Buck's Stove and Range Co. and organized labor must not be referred to, either by printed or written word or orally. The American Federation of Labor and its officers are each and severally named in the injunction. This injunction is the most sweeping ever issued.

"It is an invasion of the liberty of the press and the right of free speech.

"On account of its invasion of these two fundamental liberties, this injunction should be seriously considered by every citizen of our country.

"It is the American Federation of Labor and the American Federationist that are now enjoined. Tomorrow it may be another publication or some other class of equally law-abiding citizens, and the present injunction may then be quoted as a sacred precedent for future encroachments upon the liberties of the people.

804 "With all due respect to the court it is impossible for us to see how we can comply with all the terms of this injunction. We would not be performing our duty to labor and to the public without discussion of this injunction. A great principle is at stake."

And so on to the end of the editorial. Had you written such an editorial as that for publication in that number? A. I wrote that editorial and gave the title, "Free Press and Free Speech Invaded by Injunction against the A. F. of L.—A Review and Protest."

Q. The question is had you written that—— A. I wrote it.

Q. (Continuing:) Before the Executive Council dissolved or adjourned? A. I think not.

Q. Let me refresh your recollection on that subject. Let me call your attention to a statement in these minutes of the Executive Council meeting, found on page 218 of the March number of the American Federationist, 1908:

"Our position and attitude in the case are fully set forth in an editorial which I have written and which will be published in the February issue of the American Federationist, and which I will lay before you before adjournment."

Now, the fact that you had already written this, which fully sets forth the matter, and which was to be published in the February issue, and your promise to lay it before the Executive Council before adjournment, with these facts before you, what is your impression now? A. You refresh my memory by reading that, and I think I did; but whether I did or not I am not sure.

Q. When you prepared this circular entitled "An Urgent Appeal", dated Washington, D. C., January 24, 1908 (Exhibit A. II. No. 2), which contains the following:

"Justice Gould, of the Supreme Court of the District of Columbia, has issued an injunction against the American Federation of Labor and its officers, officially and individually.

"The injunction invades the liberty of the press, the liberty of speech. It enjoins the American Federation of Labor, or its officers from printing, writing, or orally communicating the fact that the Buck's Stove and Range Company has assumed an attitude of hostility toward labor, and that organized labor has made this fact known, and asks its friends to use their influence and purchasing power with a view of bringing about an adjustment of all matters in controversy between that Company and organized labor. The injunction is of the most sweeping character, and it, as well as the suit in connection therewith, must, of necessity, be contested in the courts, though it reach the highest judicial tribunal of our country.

"With this is a reprint of an editorial from the February, 1908, American Federationist, entitled 'Free Speech, Free Press Invaded By Injunction Against A. F. of L.—A Review and Protest.' The editorial contains a full presentation of labor's position in regard to this injunction."

In connection with that circular, did you have a reprint made of that editorial? A. I did.

Q. Just as it is referred to? A. I did.

Q. And sent with the circular? A. I did.

Q. And how generally was that distributed, how many were issued? A. I think they were sent to all the secretaries in the country whose addresses we had.

Q. Of the American Federation of Labor? A. Yes sir.

Q. And that it may be distinctly before the mind of the court when it considers the fact, will you state how many of such unions there are? A. About 27,000.

Q. And those unions are composed in the aggregate of about how many individuals? A. Two million or more.

Q. And it was to them that you issued these circulars and sent to them? A. Sent to the secretaries of local unions, sir.

Q. Yes, whose membership was so large in the aggregate. And in the February number, in which that editorial appears, you also copied a copy of the injunction order in full? A. Yes sir.

Q. And was this number of the Federationist sent out in considerable numbers? A. Yes sir.

Q. To persons of the general description which you made this morning in regard to the January number? A. Yes sir.

807 Q. And did you precede that publication with the following statement or explanation:

"In the official organ of the National Association of Manufacturers, one of the counsel for the Buck's Stove and Range Company declares that punishment for violation of the injunction issued by Justice Gould against the American Federation of Labor applies particularly to those within the territorial limits of the District of Columbia who violate the terms of the injunction, that those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia. Counsel for the American Federation of Labor assures us that this construction of the court's order is accurate."

Did you publish that statement? A. I did.

Q. Prefacing the order? A. No sir, that is not prefacing the order. I published it.

Q. But you published it immediately preceding it? A. But it is not in any way as a preface; it is wholly independent of the order.

Q. Let us see if you are correct about that. It is headed, "Order Granting Injunction." Then follows what I have just quoted, and then follows the injunction, Buck's Stove and Range Company vs. The American Federation of Labor. A. You will see a rule between that statement and the order.

Q. Yes, did you publish it in that form, and in that connection? A. No sir, not with that intention.

Q. Did you, in point of fact, publish it in that shape, or cause it to be published in that shape? A. I cannot say as to that.

Q. You are the editor of this paper or magazine? A. Yes sir.

Q. And superintend the publication? A. Not always as to the make-up.

Q. Now, Mr. Gompers, did you append to this editorial referred to in the circular in Exhibit A. H. No. 3, the following words in large type:

"IN THE OFFICIAL ORGAN OF THE NATIONAL ASSOCIATION OF MANUFACTURERS, ONE OF THE COUNSEL FOR THE BUCK'S STOVE AND RANGE COMPANY DECLARES THAT PUNISHMENT FOR VIOLATION OF THE INJUNCTION ISSUED BY JUSTICE GOULD, AGAINST THE AMERICAN FEDERATION OF LABOR, APPLIES PARTICULARLY TO THOSE WITHIN THE TERRITORIAL LIMITS OF THE DISTRICT OF COLUMBIA, WHO VIOLATE THE TERMS OF THE INJUNCTION. THAT THOSE WHO VIOLATE THE TERMS OF THE INJUNCTION IN ANY OTHER PART OF THE COUNTRY OUTSIDE OF THE DISTRICT OF COLUMBIA CAN BE PUNISHED ONLY WHEN THEY THEREAFTER COME WITHIN THE TERRITORIAL LIMITS OF THE DISTRICT OF COLUMBIA. COUNSEL FOR THE AMERICAN FEDERATION OF LABOR ASSURE US THAT THIS CONSTRUCTION OF THE COURT'S ORDER IS ACCURATE?"

What was your object in sending out to all the local unions, 27,000 local unions, comprised within the American Federation of Labor, that statement? A. For the information it contains.

809 Q. For what purpose? A. I can give no better answer.

Q. For information. Why did you want to inform them on that point and in that way? A. As it is my desire to inform the working people and the people generally as to what information I may have.

Q. And as to their rights under the law? A. Usually.

Q. In this particular connection, now. A. In my understanding of it, yes sir.

Q. Was it to furnish them a guide as to what they might safely do? A. Not necessarily.

Q. Was not that your purpose? A. No.

Q. What was your purpose, then? A. For the information it contained, the information it contained, and a clearer understanding of the court's order.

Q. So that they might know what they could do without receiving punishment for violations of this? A. Not violations of it; what they might do and what they might not do.

Q. But you spoke of those who violated it, those who violated the terms of the injunction in any other part of the country outside the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia? A.

That is the information I wanted to convey.

810 Q. What for, why did you wish to convey that? A. As to their rights.

Q. In connection with the preceding statement, in which there is the following, in large type:

"IT IS AN INVASION OF THE LIBERTY OF THE PRESS AND THE RIGHT OF FREE SPEECH."

A. I so regarded it.

Q. Now, do you wish to be understood as stating here, under the obligations of your affirmation, that it was not for the purpose of informing them that if they continued to exercise what you said in that editorial was within the liberty of the press and right of free speech, they would not be in danger of punishment here within the District of Columbia unless they came within its borders? A. No, that was not my intention.

Q. What was your intention, then? A. My intention was to convey to them the information that an attorney for the Buck's Stove and Range Company had substantially made that statement and that it was confirmed by the opinion of our attorney.

Q. Mr. Gompers, before sending out a statement of that kind, why did you not go to the Judge who had issued that injunction and inquire whether or not that was not itself a violation of the injunction? A. I assumed that when an attorney for the plaintiff made that statement it was sufficiently authoritative without having the affirmation of the Judge.

Q. Is that the reason you did not go to the Judge? A.
811 Not the only reason. It did not occur to me to go to the Judge after that.

Q. Now, Mr. Gompers, did it occur to your that the gentlemen to whom that was communicated might understand from it that they could with impunity continue to do the things which they were by the injunction forbidden to do? A. No, the very fact that I had taken the name of the Buck's Stove and Range Company from the "We Don't Patronize" list and published an editorial in the first person giving my reasons for the discontinuance of the name of that company on the "We Don't Patronize" list, I thought they would understand the full purport of that act on my part as editor and president of the American Federation of Labor. In that item to which you refer, Mr. Davenport, it was founded upon this opinion, which I saw published in the American Industries, the organ of the National Association of Manufacturers, of which Mr. Van Cleave is president, the issue of January 1st, 1908, as follows (page 8):

"The Boycott Decision.—The Meaning and Penalty.

"It is important to everyone interested to understand that though this decree was made by the Supreme Court of the District of Columbia that its power to punish for contempt is limited to such persons as it may at any time find within the territorial limits of the District of Columbia. Whether they reside within or without the District of Columbia, the decree itself is binding upon all persons comprised within its terms, including all the individual members of the American Federation of Labor, wherever they reside, and all
812 other persons who have heretofore acted or may hereafter act in concert with the defendants named in the decree in carrying out the boycott therein enjoined.

"It is important also for every person interested to know that it is a criminal offense under the Statutes of the United States, punishable by imprisonment in the penitentiary for not more than three years, for any two or more persons anywhere in the United States to conspire together to evade or defeat this decree by doing any of the acts prohibited by it, and they are liable to prosecution therefor by the Federal authorities. It is within the power and will be the duty of the Federal authorities to protect the dignity of the Supreme Court of the District of Columbia against all attempts to defeat the course of justice in that court by the doing by anybody in any place of the acts in that decree.

(Signed)

DANIEL DAVENPORT,
Of Counsel."

Was that the statement which you had in mind when you put forth this statement? A. Yes sir.

Q. Then you misrepresented altogether the construction of the decree which was put upon it by Daniel Davenport, of counsel for the plaintiff, did you not? A. No sir.

Q. Well, let us see if that is not so. First, as to the misconception. I read now from the statement signed.

"It is important to everyone interested to understand that though this decree was made by the Supreme Court of the District of Columbia, and its power to punish for contempt is limited to such persons as it may at any time find within the territorial limits of the District of Columbia, whether they reside within or without the District of Columbia, the decree itself is binding upon all persons comprised within its terms, including all the individual members of the American Federation of Labor, wherever they reside, and all other persons who have heretofore acted or may hereafter act in concert with the defendants named in the decree in carrying out the boycott therein enjoined."

Do you find anything in that statement that warrants the statement that, "Those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia?" A. Yes sir.

Q. Is it not stated that not only is it binding upon all persons, wherever they reside, and upon such persons as it may at any time find within the territorial limits of the District of Columbia— A. That is just the construction that I placed upon it.

Q. And is not that followed immediately by this, in the statement:

"It is important also for every person interested to know that it is a criminal offense under the statutes of the United States, punishable by imprisonment in the penitentiary for not more than three years, for any two or more persons anywhere in the United States to conspire together to evade or defeat this decree by doing any of the acts prohibited by it, and they are liable to prosecution therefor by the Federal authorities."

Did you not see that in my statement? A. I did.

Q. Is it not a direct perversion of such a statement to say that those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia? A. That is my understanding of your statement, to which I called attention, and which you have read.

Q. It is your understanding of it. Was not that followed immediately by the statement, "It is within the power, and will be the duty of the Federal authorities to protect the dignity of the Supreme Court of the District of Columbia against all attempt to defeat the part of justice in that court by the doing by anybody in any place of the acts prohibited by said decree."? A. If you take that in connection with the first paragraph of your statement, you will find that I am warranted in my understanding.

Q. I think not. A. Well, that is a matter of opinion.

Q. Do you say that you were assured by the counsel for the American Federation of Labor that the construction that you quoted of the court's order is accurate? A. Yes sir.

Q. What was your purpose, if that was your understanding of what was conveyed by the statement signed by me, what was your

object in attaching it to this editorial and sending it out to
815 the different unions affiliated with your body? A. Your
opinions are always so very valuable to me that I thought they
would be valuable to the working people of the country.

Q. So that they would be guided by that? A. By your opinion.

Q. By my opinion as conveyed to them by you? A. For the information it contained.

Q. For what purpose did you want them to have the information?

A. As I have desired that they should have the best information, the fullest information upon any matter of public importance.

Q. Did you not think it likely that some of those to whom that was sent might continue to do the acts that they had been enjoined from doing? A. No. In the March issue of the American Federationist, I published an editorial as follows:

"To Organized Labor and Friends. It has seldom occurred that I have found it necessary to use the first person in addressing my fellow workers and the people through the editorial columns of the American Federationist"——

Mr. DAVENPORT: Before you put that in, I want to say——

Mr. RALSTON: That is part of his answer. He can put it in. He can give it to the stenographer.

Mr. DAVENPORT: He cannot make it part of his answer.

Mr. RALSTON: Yes, he can.

Mr. DAVENPORT: He can't do it now.

Mr. RALSTON: You cannot stop him.

816 By Mr. DAVENPORT:

Q. Now, Mr. Gompers what you are about to read from is something which was published about two months after the sending out of that circular? A. It was published afterwards.

Q. Two months? A. I think so.

Q. Do you say that there was anything in your statement two months afterwards that would prevent the effect upon the minds of those to whom the circular was addressed? A. No; but in that same issue I discontinued the publication of the name of the Buck's Stove and Range Company upon the "We Don't Patronize" list.

Q. I think there is something here that I want to show you, but I do not see it just now. I think it would be unsafe for you to tie up to any such thing as that. A. I know how solicitous you are for my safety.

Q. I have been trying, as I have told you before, to keep you from breaking into jail. A. And you have been consuming three days and nights of my time trying to save me from going to jail?

Q. Mr. Gompers, what I am trying to do is to do my duty to you, to the plaintiff and to the court, to elicit the exact facts in regard to your conduct and that of your associates in connection with this matter, lay them before the court, so that the court may take such action as it thinks advisable. A. With all of which I am perfectly satisfied.

Q. Your counsel called attention to the fact that we had
817 not been hasty in bringing this matter to the attention of the court and that you had been permitted to go on with long

suffering on the part of the plaintiff, and any suggestion that you may make that there is any desire to hurry you into durance vile is incorrect.

In this interesting connection, I want to call your attention to a fact which I cannot just now turn to. A. If you will call my attention to it, I will be glad to try to help you out.

Q. I should be glad to have your explanation. A. If you will refer to it. In the February issue the name of the Buck's Stove and Range Company was dropped from the "We Don't Patronize" List.

Q. I direct your attention to the editorial referred to by you in the American Federationist for February, 1908, and in the copy thereof which was sent out, (being Exhibit A. II. No. 3) to the following, to be found on page 6 of the circular:

(Reading from exhibit marked "A. II. No. 3.")

"No person can be compelled to buy an article. If the purchaser chooses to let along certain products for any reason or for no reason there is no way of compelling him to buy.

"This injunction can not compel union men or their friends to buy Buck's Stove and Ranges. For this reason the injunction will fail to bolster up the business of the firm which it claims is so swiftly declining.

"Individuals as members of organized labor will still exercise the right to buy or not to buy the Buck's Stoves and Ranges. It is an exemplification of the saying: "You can lead a horse to water but you can't make him drink," and more than likely these men of organized labor and their friends will continue to exercise their right to purchase or not purchase the Buck's Stoves and Ranges.

"It may not be amiss here to say that in all these proceedings, whether before the court or in the contest forced upon labor by the Buck's Stove and Range Co., no element of personal malice or ill-will enters. Labor is earnestly desirous of entering into friendly relations with employers, and this is none the less true of its desire to reach an honorable adjustment and agreement with the Buck's Stove and Range Co. So long, however, as that company continues in its hostile attitude to labor, denying it the right to organize, discriminates against union members, and refuses to accord conditions of employment generally regarded as fair in the trade, it must expect retaliatory measures: these measures always, however, within the law and for the purpose of ultimately reaching an honorable, mutually advantageous agreement.

"The publication of the Buck's Stove and Range Co. on the 'We Don't Patronize' list of the American Federation of Labor is only an incident in the history of the case. These stoves might have been set as severely alone by purchasers if they had never been mentioned on that list. It is not the matter of removing that firm from the list against which we primarily protest, it is this injunction invading the freedom of the press."

With that language before you, Mr. Gompers, do you say that you had sufficiently indicated to the gentlemen to whom these circulars were sent that the boycott was abandoned?

A. Yes sir, of the Buck's Stove and Range Company.

Q. That the boycott was abandoned? A. Yes sir. That from which you quote is an editorial review of the fundamental principles involved in the injunction issued by Justice Gould, and had no relation whatever as to the boycott or "We Don't Patronize" list, or "unfair" list, which the Judge says are interchangeable terms, and has no reference to it at all.

Q. Let me bring you back to the precise question asked you. I ask you whether or not you do not think that that statement as to the meaning and construction of the order was sent to the persons to whom it was sent that they might infer from it that they could with impunity go on and do the very things which they were forbidden by the injunction to do? A. That was not the purpose.

Q. I will repeat the question.

The question as above recorded was repeated by the stenographer.

A. No.

Q. What other meaning could they attach to these words:

"That those who violate the terms of the injunction in any other part of the country outside the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia"? A. I don't know that they could place any other construction upon it than what its plain reading indicates, and I could say that the editorial ought to be taken as a whole

rather than extracts from it, so that a clear comprehension
820 of it may be had.

Q. Did you or not think that the statement thus communicated to these men might not lead them to do the very things which they had been enjoined from doing, when you had previously stated to them, in reference to this very case, in the October number, 1907, of the American Federationist, at pages 791 and 792 —

"So labor must not use its patronage as it will—that is, if Van Cleave of Buck's Stove and Range Company fame has his way. But what vested right has that company in the patronage of labor or of labor's friends? It is their own to withhold or bestow as their interest or fancy may direct.

"They have a lawful right to do as they wish, all the Van Cleavees all the injunctions, all the fool or vicious opponents to the contrary notwithstanding.

"Wonder whether Van Cleave will try for an injunction compelling union men and their friends to buy the Buck's Stove and Range Company's unfair product?

"Until a law is passed making it compulsory upon labor men to buy Van Cleave's stoves we need not buy them, we won't buy them and we will persuade other fair-minded, sympathetic friends to co-operate with us and leave the blamed things alone.

"Go to — with your injunctions."? A. They had no connection with each other.

Q. By the way, what is the significance of that dash there? A. I wanted to explain that long ago if you had given me a chance. I was, "Oh, pshaw", as we often say. I know the construction

821 that has been placed upon it—

Q. What construction has been placed upon it? A. "Go

to hell." That was not in my mind. It meant "Go to" with your injunction. I have seen that in classic works, and I have heard that expression made without it being intended to mean that the party wished to convey the impression to "Go to hell."

Q. Then you wish to be understood as stating to the court that when you say, "Go to" followed by a dash, "with your injunctions," and the connection in which it is used, that you did not intend to have it understood by those who would read the statement that you meant to say, "Go to hell with your injunctions?"

A. That was not my intention, and is not.

Q. Was not? A. Was not and is not.

Q. You do not now intend the court to go to hell? A. It was not and is not.

Q. The court will be grateful to you for that. I will ask you, for this is getting to be a very interesting development—whether or not that statement as to the meaning of the injunction, thus sent out to the gentlemen to whom it was sent, might not be understood by them to mean that they could with impunity continue to boycott and violate the injunction in the terms that it was expressed when, in the same October number, you had published the following statement:

"The Buck's Stove and Range Company of St. Louis (of which Mr. Van Cleave is president), will continue to be regarded 822 and treated as unfair until it comes to an honorable agreement with organized labor. And this, too, whether or not it appears on the 'We Don't Patronize' list." A. That was my opinion.

Q. That does not answer the question, or come anywhere near it. It was your opinion that it would incite them to do—— A. I have tried to listen to and understand your questions, but they are long and involved.

Q. I doubt very much whether you are listening to my questions or thinking up an answer in advance. I think your mind is diverted from the point of the question by the answer your mind is dwelling upon. But be that as it may, Mr. Stenographer, will you read that question to Mr. Gompers, and Mr. Gompers answer it.

(The question was repeated by the stenographer as hereinbefore recorded).

A. My answer is, "no sir."

By Mr. DAVENPORT:

Q. I will ask you whether or not you did not think that that explanation of the meaning of the injunction to which your attention has been called, as set out in this circular, might not be construed by those to whom it was sent as an intimation that they might with safety violate the injunction, so long as they stayed without the District of Columbia, when in the circular which you had issued only a short time before, dated November 26, 1907, and sent to these

same persons, and in regard to which you have testified, you
823 had stated as follows:

"Mr. Van Cleave, for the Buck's Stove and Range Company, brought suit against the American Federation of Labor and its Executive Council and has petitioned the court for an injunction to prohibit the American Federation of Labor from in any way advising organized labor and its friends of the fact that the Buck's Stove and Range Company is unfair to its employes and for that reason its name is published upon the American Federation of Labor 'We Don't Patronize list.'

"The Court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove and Range Company, upon the 'We Don't Patronize List.' Should we be enjoined by the court from doing so, the merits of the case will not be altered, nor can any court decision take from any man the right to bestow his patronage where he pleases.

"Mr. Van Cleave, president of the Buck's Stove & Range Company also president of the National Association of Manufacturers is raising a war fund of one million and a half dollars to crush organized labor. You already know the attempts that have been made with a part of that money to assassinate the characters of the active men in the labor movement to corrupt them and buy them over, much of which was exposed at the recent Norfolk convention of the American Federation of Labor and more of which will be published in a pamphlet about to be issued.

"Bear in mind that you have a right to decide how your money shall be expended.

"You may or may not buy the products of the Buck's
824 Stove and Range Company.

"There is no law or edict of court that can compel you to buy a Buck's stove or range.

"You cannot be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove and Range Company's products of its unfair attitude toward its employes and ask them to give their sympathy and aid in influencing the Buck's Stove and Range Company to deal fairly with its employes and come to an honorable agreement with the union primarily at interest.

"It would be well for you as central bodies, local unions and individual members of organized labor and sympathizers to call on business men in your respective localities, urge their sympathetic cooperation and ask them to write to the Buck's Stove & Range Company of St. Louis, urging it to make an honorable adjustment of its relations with organized labor.

"Act energetically and at once. Report the result of your effort to the undersigned.

"SAM'L GOMPERS,

President American Federation of Labor."

(At the request of Mr. Davenport, the first part of the question was repeated by the stenographer.)

Mr. DAVENPORT: I would like you to grapple with that question.

A. You had to grapple with it several times yourself.

Q. Now you grapple with it. I think it will be well for you to consider what you say when you do answer it. A. Is that
825 an intimation that I do not consider my answers? I am free to say that your questions are so long, and so involved that you yourself fail to understand them and require the stenographer to re-read each one, and it makes it exceedingly difficult for me to answer them.

Q. If you have not understood the pending question, the stenographer can read it to you in full.

(The question was repeated as above recorded.)

A. I do not think that it was possible for any such false notion to enter the minds of the recipients of the circular.

(Thereupon, at 10:30 p. m., the further taking of testimony was adjourned until tomorrow, Friday, September 18, 1908, at 10 o'clock a. m.)

ALBERT HARPER, *Examiner.*

826

WASHINGTON, D. C.,

September 18, 1908—Friday, 10 o'clock a. m.

Met pursuant to adjournment.

Appearances.—Daniel Davenport, Esq., of Solicitors for the petitioner; Messrs. Ralston & Siddons of Solicitors for Respondents, of whom Messrs. Samuel Gompers and Frank Morrison are present; and also the Examiner.

Thereupon SAMUEL GOMPERS, recalled, testified further as follows:

Direct examination (continued).

By Mr. DAVENPORT:

Q. Mr. Gompers, when you attended to the copy of the editorial from the American Federationist of February 1908, contained in Exhibit A. H. No. 3, the statement as to the construction put upon the injunction, did you not think that those who should receive those documents and read them, having read the first portion of it and coming to this which I now quote, "With all due respect to the Court, it is impossible for us to see how we can comply with all the terms of the injunction," they would be inclined to violate the terms of the injunction? A. I think not. The editorial was re-
827 printed and sent with the circular appealing for voluntary contributions so that we might have some money with which to defend ourselves and the Federation in this suit, and the editorial was an argument on that subject of the principles involved in the

suit and the injunction; and instead of entering into the subject in the appeal the editorial was reprinted so as to give the men of labor an opportunity of understanding the principles involved in the legal contest.

Q. Well, why append to it this statement, "In the official organ of the National Association of Manufacturers" and so forth? A. It was not essential to it, it had no connection with it; it was independent of the editorial.

Q. Why was it printed in large type? A. This is several times you have repeated "In large type." It is not large type.

Q. Well, in heavy faced type. A. It is larger type than the balance of the circular, but it is not large type.

Q. Well, the circular of course will speak for itself to the Court when it is before the Court. Q. Well, if you had said larger type or blacked faced type, it would have been different. It is not large type.

Q. Whichever you are pleased to call it, it is noticeable type and I want to direct your attention particularly to that and I will read it as follows:

"In the official organ of the National Association of Manufacturers, one of the counsel for the Buck's Stove & Range
828 Company declares that punishment for violation of the injunction issued by Justice Gould against the American Federation of Labor applies particularly to those within the territorial limits of the District of Columbia who violate the terms of the injunction. That those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia. Counsel for the American Federation of Labor assure us that this construction of the Court's order is accurate." What was the object of printing that in this shape it is so far as type is concerned? Was it not to draw special attention to it? A. No, sir. It was that space left in the circular and white paper does not look very well. It might have been leaded out instead of being in heavier faced type, but it was for the purpose of filling out the page.

Q. Now, Mr. Gompers I want to direct your attention to another statement in this editorial which was reprinted in this circular, reading as follows:

"Labor is earnestly desirous of entering into friendly relations with employers, and this is none the less true of its desire to reach an honorable adjustment and agreement with the Buck's Stove & Range Co. So long however as that company continues in its hostile attitude to labor, denying it the right to organize, discriminate
829 against union members and refuses to accord conditions of employment generally regarded as fair in the trade, it must expect retaliatory measures; these measures however always within the law and for the purpose of ultimately reaching an honorable mutually advantageous agreement."

Now the question of the relations of the Buck's Stove & Range

Company to Labor was the matter in issue in that case before Judge Gould as shown by the allegations of the complaint and the admissions and denials of the answer. Were you not aware at that time that the Court, after taking testimony and listening to the claims of counsel and the arguments adduced by them had found adversely to yourself and all the other defendants on that question? A. Mr. Davenport it will be necessary I think for you to make your questions a little briefer if you expect me to understand them.

Mr. DAVENPORT: I will ask the stenographer to read the question in full.

(The Stenographer read the question as above recorded.)

Mr. SIDDON: On what question?

Mr. DAVENPORT: The attitude of the company towards labor so far as the same was based on the restraining order.

The WITNESS: Yes, but it did not interfere with my right to editorially discuss the question.

By Mr. DAVENPORT:

Q. In the first place had not the Court found that the company had entered into agreements with the metal polishers' union and with the iron moulders' union of North America and had scrupulously lived up to them? A. I know that they unscrupulously violated them.

Q. That is not what you know I am asking about; I am asking about what the Court found. A. I do not know.

Q. You had read the opinion you say? A. I did not read it all.

Q. You did not? A. I did not.

Q. I thought you said you read it carefully and made it the subject of an editorial, this very editorial? A. Oh, yes, yes.

Q. This very editorial was addressed to that? A. Oh, yes. I thought you meant something else.

Q. Now I will have the stenographer just repeat that question.

Mr. SIDDON: I submit the opinion of the Court and decree are in the record and speak for themselves.

Mr. DAVENPORT: That may all be. The question is what he knew at the time when he wrote this article and sent out this circular through the country to the number of 27,000?

(The Stenographer read the question referred to as follows:)

"In the first place had not the court found that the company had entered into an agreement with the Metal Polishers' Union and with the Iron Moulders' Union of North America, and had scrupulously lived up to them?" A. I do not know whether the judge used the term scrupulously.

831 Q. Well, leave out the word scrupulously. Had they lived up to that? A. Yes; and which I know to be contrary to the fact.

Q. And in the second place was not the matter of whether or not the Buck's Stove & Range Company had denied to any person in its employ or any of its laboring people the right to organize, a matter in issue in that hearing, and had not the Court found adversely to

your contention in regard to that specifically? A. I am not sure that the Court so held. I know it was contrary to the facts.

Q. Was not the question whether the Buck's Stove & Range Company had discriminated against the union members before the Court in that case and upon the testimony Judge Gould held adversely to the defendants on that point? A. I am not sure, but if the Court so held I know it is not in accordance with the facts.

Q. The question is what the Court held. You say you had this opinion before you when you were writing this editorial and in that editorial you make these statements. Had not the question of whether the Buck's Stove and Range Company had refused to accord conditions of employment generally regarded as fair in the trade, been submitted to the Court and upon the testimony and after discussion had not the Court found adversely to the defendants on that issue? A. I am not sure, but if the Court so held I know it is contrary to the facts.

Q. After having read that opinion and addressing yourself
832 to it and writing this document—— A. (Interrupting:) Editorial.

Q. After having read that opinion and addressing yourself to it and writing this editorial which was embodied in this circular—— A. (Interrupting:) It was not embodied in the circular.

Q. What was this then? A. It was a reprint of the editorial. I thought you had reference to the circular.

Q. I have exhibit A. H. No. 3 right before me here which is in the form of a circular and which is accompanied by Exhibit A. H. No. 2 in its distribution. A. Rather than circular I should call it a pamphlet or brochure.

Q. Now, Mr. Gompers it is idle to inject, it seems to me, observations of that kind in this record. The thing speaks for itself whether you call it a pamphlet, brochure, or an article. It is here in the matter. It is indifferent what term we apply to it. I happened to apply that term and it seems to be perfectly proper. A. It is not.

Q. The verbal criticism of whether it is a circular is idle and irrelevant. A. I consider it perfectly proper and pertinent.

Mr. SIDDOXS: You started Mr. Gompers to say when you
833 first contradicted that that you thought it was some other circular.

The WITNESS: Yes. When you referred to this reprint of the editorial as a circular I was under the impression that you referred to the circular which this editorial reprint accompanied.

By Mr. DAVENPORT:

Q. I think the record will sufficiently show what we were talking about. Now let us recur to the point of departure where this episode occurred. Mr. Stenographer will you read the question?

(The stenographer read the question as above recorded so far as counsel had asked it.)

By Mr. DAVENPORT:

Q. After having read that opinion and addressing yourself to it

and writing this editorial which was embodied in this circular, you wrote these words:

"So long however as that company continues in its hostile attitude to labor, denying it the right to organize, discriminates against union members, and refuses to accord conditions of employment generally regarded as fair in the trade, it must expect retaliatory measures."

In appending to this document Exhibit A. II. No. 3, the explanation of the meaning of the injunction, did you not expect that those into whose hands it might come would be impelled to do the things which they had been doing and which you and your associates had been doing and which you termed a violation of the terms of the injunction? I quote:

34 "That those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia"?

A. They had no connection with each other at all in my mind.

Q. It did not occur to you that that would operate upon the minds of those to whom it was addressed, to lead them to do the things which were forbidden in that injunction? A. No.

Q. I want to call attention in this same document to the following statement which preceded this last portion of the document containing the explanation of the legal effect of the decree:

"The injunction is printed in full in this issue of the American Federationist. We hope our readers will study carefully every word and every phrase. It is a most remarkable injunction. Justice Gould seems to base this assumption that there has been a combination of numbers of wage earners conspiring to commit unlawful acts, such is not the fact."

A. Don't you think that you ought to complete the matter entirely contained in that paragraph?

Q. I do not. A. All right.

Q. I further call your attention to the following from the decision of Justice Gould to be found on page 103 of the original
35 record of this case and on page 86 of the transcript of the Court of Appeals:

"There appear two general questions upon this record. First, as the plaintiff shown the existence of an unlawful combination and conspiracy to destroy his business; and second does the testimony connect the defendants or any of them with such combination and conspiracy to make them amenable to the injunctive powers of this Court? On the first proposition there is little room for argument or discussion." This statement or conclusion of the court is preceded by an analysis by the Court of the evidence in the case. Now I want to know whether in writing this in the editorial and which was copied and distributed with the circular, and having appended to it this statement to which I have directed your attention, reading as follows:

"In the official organ of the National Association of Manufacturers one of the counsel for the Buck's Stove & Range Company

declares that punishment for violation of the injunction issued by Justice Gould against the American Federation of Labor applies particularly to those within the territorial limits of the District of Columbia who violate the terms of the injunction; that those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia. Counsel for the American Federation of Labor assure us that this construction of the Court's order is accurate."

Did you not suppose that it had the direct tendency to
836 lead those who read it to continue in the course of conduct which was prohibited by the Court's injunction? A. No.

Q. You did know, did you not, that the Court had found directly against you on that question? A. But that did not interfere with my editorial utterances.

Q. Well, answer the question and append the condition. Repeat the question.

(The stenographer read the question as above recorded.)

Mr. SIDDONS: To what question do you refer? The Court stated two questions as you stated in the preceding question.

Mr. DAVENPORT: I think it is plainly enough indicated.

The WITNESS: Well, I don't think so.

Mr. DAVENPORT: Read it over again and if the witness has the same lack of understanding on that question I will endeavor to bring it up to his capacity.

Mr. SIDDONS: Perhaps it is the capacity of his counsel and not the witness. I do not say he understands it.

Mr. DAVENPORT: Well, let us see whether the witness understands it.

(The stenographer read the question as above recorded.)

The WITNESS: Your question is too indefinite for me to be able to answer it. The use of the word "it" and of the word "question," without definitely stating which question of the two you refer
837 to when you say "it," makes it incomprehensible to me.

Q. That is the best you can do with that question, in answering it? A. In that form, yes.

Q. When you wrote in this editorial, "Justice Gould seems to base this injunction on the assumption that there has been a combination of numbers of wage earners conspiring to commit unlawful acts. Such is not the fact." You knew did you not, that Judge Gould had judicially passed upon that question upon the evidence presented? A. Yes.

Q. Adversely to the contention of the defendant? A. Yes.

Q. Mr. Gompers, as editor of the American Federationist do you receive copies of the labor newspapers throughout the country, the labor press? A. Frequently, yes.

Q. Very generally? A. Yes.

Q. About how many labor newspapers are there or were there at that time in the country? A. I could not tell you.

Q. Approximately? A. There are several hundred, if that is sufficient.

Q. And in your capacity as editor of the Federationist and as President of the American Federation of Labor did you keep a general track of the statement in those papers in regard to the matter of the boycott of the Buck's Stove & Range Company? A. No.

Q. Was your attention drawn in any case to it? A. Yes—by you.

Q. No, by the papers? A. Yes, sir, my attention was called to them by you.

Q. Well, as they came out from the press and came here into your office? A. No.

Q. Did you see the general course of treatment of the matter in the press? A. No.

Q. Now, Mr. Gompers I believe heretofore in this case you have identified these, that you recognized that (indicating) as a journal of the Metal Polishers, Buffers, Platers, Brass Moulders and Brass and Silver Workers International Union of North America, having been heretofore marked Exhibit Petitioner No. 4? Do you recognize that, Mr. Gompers? A. I do.

Q. As the journal of the Metal Polishers? A. Journal of the Metal Polishers, Buffers, Platers, Brass Moulders and Brass and Silver Workers' International Union of North America.

Q. Is that the journal of the International Union of which Mr. A. B. Grout is the president? A. Yes, sir.

Q. Now, Mr. Gompers, I want to call your attention to the fact that in this journal in the list of unfair shops found on the second page of the cover of the November number, 1907, the name of the Buck's Stove & Range Company occurs; and on the corresponding page of the December 1907 issue the name of the Buck's Stove & Range Company, St. Louis again appears under the list of unfair shops; and on the corresponding page of the January 1908 number under the list of unfair shops again appears the name of the Buck's Stove & Range Company of St. Louis, Mo.; and on the corresponding page of the number for February 1908 under the list of unfair shops appears the name of the Buck's Stove & Range Company of St. Louis, Mo.; when you wrote and published that editorial and sent it out with that circular Exhibit A. II. No. 3, did you not know that the name of the Buck's Stove & Range Company was appearing in the unfair list in that magazine? A. I did not.

Q. Why, you testified in the case before—— A. (Interrupting:) I say I did not know it.

Q. Well, such is the fact as appears by the journal. A. It speaks for itself.

Q. They are on file in this case. In this connection let me call your attention to the June 1907 number of that journal being the journal of the Metal Polishers', Buffers', Platers', Brass Moulders and Brass and Silver Workers' International Union of North America, and to the following statement in particular, to be found on page 14 at the bottom of the first column:

"The International Office has just completed arrangements with the United Iron Workers of America whereby they have mailed to their three thousand locals a circular regarding the Buck's Stoves and Ranges, this office having the circulars printed and folded and then expressed in bulk to the National Headquarters of the United Mine Workers, they furnishing the envelopes and addressing the same and defraying the cost of postage. This firm has been making such efforts to sell their unfair stoves in the mining districts."

I will ask you whether or not you identify that as a copy of the journal? A. The Journal of the Metal Polishers, Buffers, Platers, Brass Moulders and Brass and Silver Workers International Union of North America, yes.

Q. For June 1907? A. Yes.

Mr. DAVENPORT: I offer this in evidence and ask that it be marked as an exhibit.

(The document produced as an exhibit was marked "Exhibit A. H. No. 6" same being a copy of the June 1907 issue of "Our Journal," published monthly by the Metal Polishers, Buffers, Platers, Brass Moulders and Brass and Silver Workers International Union of North America, being Volume XVI No. 6.)

Mr. SIDDON: I understand that there is already on the record a stipulation that all of your questions are subject to any 841 form of objection.

Mr. DAVENPORT: Every conceivable form of objection is reserved, to save time.

By Mr. DAVENPORT:

Q. I wish you would look at this paper, headed, "The Cleveland Citizen" dated at Cleveland, Ohio, Saturday, September 12, 1908, and I will ask you whether or not you recognize that as an issue of that paper? A. I do.

Q. "The Cleveland Citizen, issued every Saturday by the United Trades and Labor Council, Cleveland, Ohio."

Mr. SIDDON: Let me ask you, Mr. Gompers, do you identify that from your general familiarity with that paper or are you identifying it as having read that particular copy?

The WITNESS: I have not seen it until just this moment when shown me by Mr. Davenport.

Mr. DAVENPORT: I will offer this in evidence and ask that it be marked as an exhibit.

(The paper produced as an exhibit was marked, "Exhibit A. H. No. 7, same being a copy of "The Cleveland Citizen," dated Cleveland, Ohio, Saturday, September 12, 1908, volume XVIII No. 34, whole number 920.)

By Mr. DAVENPORT:

Q. I call particular attention to the fifth column on page three of this exhibit under the heading, "A. F. of L. Unfair List," and

particularly to that portion of it under the heading, "Stoves," reading as follows:

42 "Wrought Iron Range Company, St. Louis, Mo.

"United States Heater Company, Detroit, Mich.

"Gurney Foundry Company, Toronto, Ontario.

"Home Stove Works, Indianapolis, Indiana.

"Please remember that it is unlawful for the American Federation of Labor to

BOYCOTT BUCK'S STOVES AND RANGES.

"Justice Gould in the Equity Court of the District of Columbia on December 17, handed down a decision granting the company a temporary injunction preventing the Federation from publishing the firm as

UNFAIR TO ORGANIZED LABOR.

(This is not in conflict with the injunction but a statement of fact.)"

Now allow me to direct your attention in that connection to the following paragraph, being paragraph 7, of the petition to have the defendants named, adjudged guilty of contempt.

"Heretofore, to wit: the 13th day of December, A. D. 1897, at the convention of the defendant, American Federation of Labor, held at Nashville, Tennessee, the said Samuel Gompers, being then, and now, the President of the said defendant, American Federation of Labor, in reporting as its President to the convention of the said defendant, used the following language to be found at pages 13 23 and 24 of the official report of the proceedings of the American Federation of Labor for the year 1897, which were prepared, authenticated and circulated by the said Frank Morrison, being then as now, Secretary of the defendant, American Federation of Labor, and which were published by the order of the said convention, and, by like order, republished by the said Frank Morrison or about the year 1905.

Boycotts and Court Decisions.

"Recently one of the branches of the Federal Courts decided by a majority vote that the boycott is illegal. Whether the decision rendered is applicable to all cases or simply to the one immediately under consideration has not yet fully transpired. It is manifest that the workers should have the same right which other citizens enjoy, the right which neither constitutions grant nor courts can deny—the right to stand by our friends, patronize our sympathizers and co-operators, and to withhold our patronage from those who are antagonistic to us and our cause, and the further right to acquaint our people with our preferences. While there is no desire here to argue in favor of our rights, we should demand the change of any law which curbs the privilege and the right of the workers to exercise their normal and natural preferences. In the meantime, we should proceed as we have of old, and whenever a court shall issue an injunction

844 restraining any of our fellow workers from placing a concern hostile to labor's interest on our unfair list; enjoining the workers from issuing notices of this character, the further suggestion is made that upon any letter or circular issued upon a matter of this character, after stating the name of the unfair firm and the grievance complained of, the words "We have been enjoined by the courts from boycotting this concern", could be added with advantage."

Mr. Gompers did you make that report to the convention? A. That was part of my report, yes, sir.

Q. Have you ever recalled that suggestion? A. No, sir— and I am not likely to.

Q. Mr. Gompers, I show you a paper entitled, "St. Louis Labor," dated St. Louis, Saturday, February 8th, 1908, and ask whether or not you recognize that as a copy of that paper? A. I am looking to see if there is an attack upon me. (Examining the paper.) If there is, it is surely that paper. Yes, that is the paper.

Mr. DAVENPORT: I offer this paper in evidence.

(The paper produced as an exhibit was marked, "Exhibit A. H. No. 8" same being a copy of "St. Louis Labor," dated St. Louis, Mo., Saturday, February 8th, 1908, being No. 366 of Volume VI.

By Mr. DAVENPORT:

Q. Do you recognize the paper? A. Yes.

Q. You are familiar with the paper? A. Oh, no, not very familiar.

845 Q. I call your attention to the third column on the first page under the heading, "Buck's Stove Injunction Reviewed in Federationist." "A Taff-Vale decision for the American labor movement which may have similar political results as in England," and then follows the statement from the International Socialist Review, and then is this a part which I will mark with a blue pencil "Editorial by Samuel Gompers in American Federationist." Will you state whether or not your editorial is reprinted in that paper? A. That would require my reading the entire matter and proving it.

Q. If it is necessary for you to do that you may do so. I have got to get this matter into the record.

Mr. SIDBONS: I submit that it shows for itself without having Mr. Gompers certify it.

Mr. DAVENPORT: Well, if it shows for itself, Mr. Gompers can say so.

The WITNESS: Let me have that editorial. I am not going to admit anything as being an absolutely accurate reprint unless I have a chance of verification, particularly in a paper which is published by a political party and of a certain school antagonistic to our movement.

By Mr. DAVENPORT:

Q. You have already testified in this case, Mr. Gompers that the

is one of the labor press to which you addressed your appeal. A.

No, I think I have never testified as to the labor press.

846 Q. It is in the record. A. Then let the record talk for itself.

(The witness and Mr. Morrison compare printed matter.)

The WITNESS: It is not a reprint.

By Mr. DAVENPORT:

Q. It is a reprint of portions of it? A. Yes, sir.

Q. As your counsel says, it speaks for itself just what it is. A. It is not an accurate reproduction of my editorial.

Q. Now let me call your attention, Mr. Gompers to another copy of this same paper, "St. Louis Labor," dated St. Louis, Mo., Saturday, August 15, 1908. Do you recognize that as a copy of the same paper? A. Yes.

Mr. DAVENPORT: I offer this in evidence and ask that it be marked as an exhibit.

(The paper produced as an exhibit was marked Exhibit A. II. No. 9, same being a copy of "St. Louis Labor," dated St. Louis, Mo., Saturday, August 15th, 1908, Vol. VI No. 393.)

The WITNESS: I see here an attack upon me, so it must be that paper.

By Mr. DAVENPORT:

Q. I call your attention to the following to be found on page 7 in the last column under the heading of "The Fact Is," the entire matter reading as follows:

"THE FACT IS

the Court of Equity of the District of Columbia declared against the boycott and ordered the American Federation of Labor to discontinue in the columns of the American Federationist under the 'We Don't Patronize' list the name of

THE BUCK'S STOVE & RANGE Co.

This Court decision does not make this or any other unfair concern fair; neither does it make the Union men and women of America forget the fact that Mr. Van Cleave is still fighting the Labor Unions, and that so long as he is pursuing his present Union-killing work he can not expect them to forget the fact that he

IS STILL UNFAIR TO ORGANIZED LABOR."

I call your attention to another paper, being copy of St. Louis Labor, under date of February 7, 1908, and I wish you would state whether or not that is a copy of that paper? A. Yes.

By Mr. DAVENPORT:

Q. I ask that that be marked as an exhibit and I offer it in evidence.

(The paper produced as an exhibit was marked Exhibit A. II. No. 10, same being a copy of "St. Louis Labor," dated St. Louis Mo., Saturday, June 27, 1908, Vol. VI, No. 386.)

848 By Mr. DAVENPORT:

Q. I direct your particular attention to the bottom of the last column on the third page where the same manner of statement is made. I call your attention now to another copy of that same paper dated St. Louis, Mo., Saturday, February 22, 1908, and ask whether or not that is a copy of that paper? A. Yes.

Mr. DAVENPORT: I offer that in evidence.

(The paper produced as an exhibit was marked Exhibit A. II. No. 11, the same being a copy of "St. Louis Labor," dated St. Louis, Mo., Saturday February 22, 1908, Vol. VI. No. 368.)

By Mr. DAVENPORT:

Q. These are of course offered in support of our allegation which you do not admit. A. Which allegation?

Q. In our petition. Q. Well, which allegation?

Q. That this course is being pursued following a suggestion thrown out by the United Mine Workers in their Journal. I call attention to the second column on page 6 of that issue under the heading in large type, "Announcement," reading as follows:

"Announcement.

It is unlawful for the American Federation of Labor and its members and sympathizers to

849 BOYCOTT THE BUCK'S STOVE & RANGE CO.

'Justice Gould in the Equity Court of the District of Columbia, on December 17th, handed down a decision granting the company a temporary injunction preventing the Federation from publishing the fact that the

BUCK'S STOVE & RANGE CO.

is on the

UNFAIR LIST OF ORGANIZED LABOR."

I call attention to the fact that the large type is so arranged that it reads, "Announcement. Boycott the Buck's Stove & Range Company. Buck's Stove & Range Co., unfair list of organized labor."

A. Do you know that I have always contended that it is a mistake to say that it is unlawful to boycott the product of the Buck's Stove & Range Company?

Q. What is that? A. I say that I have—just read that Mr. Stenographer.

(The Stenographer read the answer as above recorded.)

A. Enjoined, but not unlawful. I refer to the statement to which you called attention in the Cleveland Citizen when it says, "Please

remember that it is unlawful for the American Federation of Labor," and so forth.

Q. I show you a copy of the paper, "St. Louis Labor," under date of July 18th, 1908, and I will ask you whether or not that is a copy of that paper? A. Yes.

Mr. DAVENPORT: I offer that in evidence.

850 (Paper produced as an exhibit was marked Exhibit A. II. No. 12, same being a copy of "St. Louis Labor," dated St. Louis, Saturday July 18, 1908, Vol. VI. No. 389.)

By Mr. DAVENPORT:

Q. I call attention particularly to the second column on page six of this paper marked "Exhibit A. II. No. 12," to the statement similar to those to which I have called attention in the other issues of this paper, and as to the arrangement of type and the statement made. It is the same as in the others. I show you now another issue of that paper and ask you if that is a copy of that paper? A. Yes.

Mr. DAVENPORT: I offer that in evidence.

(The paper produced as an exhibit was marked Exhibit A. II. No. 13, same being a copy of "St. Louis Labor," dated St. Louis, Mo., Saturday April 11, 1908, Vol. VI. No. 375.)

By Mr. DAVENPORT:

Q. I call your attention to the first column on page 3 near the middle thereof and to the statement beginning, "The Fact Is that the Court of Equity of the District of Columbia declared against Boycott," and down to the portion, "Is still unfair to organized Labor," and direct attention to the peculiar mode in which the type is arranged, so that in the large type it appears to read as follows:

"The fact is the Buck's Stove & Range Co., is still unfair to organized labor." If you kindly admitted these things in your
851 answer it would not have necessitated this proof. A. I do not know what you refer to in your statement, "Admitted in your answer."

Q. I will show you what the allegation is so that you will see if you do not understand it.

Mr. SIBBONS: I think that is rather irrelevant, isn't it, Mr. Davenport?

Mr. DAVENPORT: In the 18th paragraph of the petition to have the parties adjudged in contempt, it reads as follows:

"The said John Mitchell, as set out in paragraph IV of the original bill in this cause, is a vice president and a member of the Executive Council of the defendant American Federation of Labor. Until the first day of April, A. D. 1908, and for many years prior thereto he was also the President of the United Mine Workers of America, one of the subordinate national and international unions of the defendant American Federation of Labor, referred to in paragraph V of the original bill in this cause and in Exhibit C thereto attached, and the Chairman of its Executive Board by which Executive Board is published weekly the United Mine Workers Journal, the

official organ of the said United Mine Workers of America. In the issue of the said United Mine Workers Journal of January 30, 1908, the said John Mitchell caused or permitted to be published the above mentioned editorial, "Urgent Appeal" and statement prefacing the said injunction order as published in the February, 1908, number of the American Federationist, as will be seen by reference 852 to pages 6, 15 and 16 of the said issue of January 30, 1908, a copy of which is herewith filed, marked Exhibit Petitioner

No. 2, and prayed to be taken and read as a part of this petition. The said United Mine Workers of America comprises several hundred thousand members, and its official organ is circulated generally among the members of the said association, and the public at large.

On to-wit; the 25th day of January A. D. 1908, at the Nineteenth Annual Convention of the United Mine Workers of America, held at Indianapolis, Indiana, the defendant, John Mitchell, its President, being in the chair, the following resolution was laid before the convention by the said defendant John Mitchell, put to a vote and adopted unanimously and by him so declared:

'Resolution No. 73.

'Whereas, The Buck's Stove and Range Company of St. Louis, Mo., have taken legal steps to prevent organized labor in general and the officers and executive committee of the A. F. of L. in particular, from advertising the above named firm as being on the "unfair" or "we don't patronize" list and

'Whereas, By the issue of such an injunction or restraining order as prayed for by the above named firm, organized labor will be deprived of one of its most effective weapons, and

853 'Whereas, J. W. Van Cleave the president of above named firm also president of the National Manufacturers' Association, stated that in a few years' time he would disrupt organized labor; therefore be it

'Resolved, That the U. M. W. of A., in Nineteenth Annual Convention assembled, place the Buck's stoves and ranges on the unfair list, and any member of the U. M. W. of A. purchasing a stove of above make will be fined \$5.00 and failing to pay the same be expelled from the organization.'

And, thereafter, to-wit; the 30th day of January, A. D. 1908, the said John Mitchell caused or permitted the official report of the proceedings of the said convention to be published in the above mentioned issue of the said United Mine Workers Journal, including the said resolution and the action taken thereupon, as will be seen by reference to page 7 of Exhibit Petitioner No. 2, above referred to.

And the said John Mitchell also caused or permitted the following to be published on the front page of the issue of the said United Mine Workers Journal of the 9th day of January A. D. 1908, as will be seen by reference to a copy of the said issue herewith filed, marked Exhibit Petitioner No. 3, and prayed to be taken and read as a part of this petition:

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'UNLAWFUL BOYCOTT.

'Our readers should govern themselves accordingly and allow all to live unmolested.

'Here is something clever and cute from the Galesburg Labor News:

'Whether or not the Manufacturers' Association, who were behind the Buck Stove and Range Company in instigating the suit, will accomplish their desired results is difficult to say. Trades unionists will fail to see wherein they will. For now power on earth can compel a man to buy something he does not want to and an announcement something on this order is enough to indicate to a union man what not to buy:

It is unlawful for the American Federation of Labor to

BOYCOTT BUCK STOVES AND RANGES.

'Justice Gould in the Equity Court of the District of Columbia on December 17th, handed down a decision granting the company a temporary injunction preventing the Federation from publishing this firm as

UNFAIR TO ORGANIZED LABOR.

'The above could hardly be construed to conflict with the law since it is a statement of facts.'

'A funny thing about this case is that the boycott has been on this firm for more than a year. Now, the unions have their
855 attention directed to it for fair.'

And the peculiar arrangement of type in the said article, whereby particular display is given to the words, "BOYCOTT BUCK STOVES AND RANGES," and "UNFAIR TO ORGANIZED LABOR," without making these direct statements in the context of the article published, was devised and designed for the express purpose of violating the injunction of this court, whereby the publication of these statements is forbidden, and of causing the said publications to be reprinted and distributed and scattered broadcast throughout the land.

The said publication in the January 9, 1908 issue of the United Mine Workers Journal was taken up and followed by the labor press, as it was intended to be, and was extensively reprinted, and circulated broadly, throughout the country, including the Cleveland Citizen, of Cleveland, Ohio, published by the United Trades and Labor Council of that city, in its issue of January 18, 1908; the Labor Journal, the official organ of the New York Allied Printing Trades Council and of the Central Trades and Labor Councils, published at Rochester, New York, in its issue of January 10, 1908; the St. Louis Labor, published at St. Louis, Missouri, in its issue of January 18, 1908, and in its weekly issues from then to the present time and the Springfield Tradesman, published at Springfield, Missouri, in its issue of January 18, 1908; all as will be seen

by reference to the deposition of the said Samuel Gompers,
856 on file and of record in this cause, and the exhibits therewith filed, to all of which reference is hereby made."

The WITNESS: You will note that the Mine Workers Journal does not claim originality in that thing, but it gives credit for that matter to another publication, and that really the Mine Workers Journal was among the papers that republished it.

Mr. DAVENPORT: That observation is not in response to any question that has been propounded to you, but I will call attention to the fact that the United Mine Workers Journal which you said you saw, had published on December 3, your circular of November 26, and states it in this way:

"Here is something clever and cute from the Galesburg, Labor News."

A. Yes, sir, that is giving credit for it.

Mr. DAVENPORT: "A funny thing about this case is that the boycott has been on this firm for more than a year. Now the unions have their attention directed to it for fair."

A. By the Court in the proceedings.

Mr. SIDDOXS: I submit that there is no pending question and this colloquy is irrelevant and is cumbering the record.

Mr. DAVENPORT: It is true it is irrelevant but this gentleman has been called into court to purge himself of this contempt. He has made oath and is here under examination and when he makes a statement pertinent to the matter I presume it is proper evidence to go before the Court, that he may exonerate himself if possible, and so I did not feel warranted in asking the stenographer to strike out his observation.

Mr. SIDDOXS: But they are observations offered by yourself at first which are no possible part of the record.

Mr. DAVENPORT: The record will show as to that.

Mr. SIDDOXS: I move to strike out all of the colloquy that has just occurred between counsel and the witness on the stand, as not in response to any question put or question attempted to be answered.

858 Q. I call your attention to another copy of the St. Louis Labor. A. That is a copy.

Q. That is under date of St. Louis, Saturday, February 1, 1908, and I ask that that be marked as an exhibit and offer it in evidence.

(Paper produced as an exhibit and marked "Exhibit A. II. No. 14," being copy of "St. Louis Labor," dated St. Louis, Mo., Saturday, February 1, 1908. Volume VI, No. 365.)

By Mr. DAVENPORT: At the bottom of the third column on the first page is a similar statement to one to which attention has just been called in the other issue:

"Announcement.

It is unlawful for the American Federation of Labor and its members and sympathizers to

BOYCOTT THE BUCK'S STOVE & RANGE CO.

'Justice Gould in the Equity Court of the District of Columbia, on December 17th, handed down a decision granting to the com-

pany a temporary injunction preventing the Federation from publishing the fact that the

BUCK'S STOVE & RANGE Co.

is on the

UNFAIR LIST OF ORGANIZED LABOR."

I want to call your attention, Mr. Gompers to this paper, 859 the Toledo Union Leader and see whether you recognize that as one of the labor press of the country.

Mr. RALSTON: What do you mean by labor press? I think that ought to be defined. Press under the control of the American Federation of Labor?

Mr. DAVENPORT: No, it is such as he has described in his testimony hitherto in this case as that to which he made his appeal. He made his appeal not only to the labor press but to what he called the reform press, you will remember.

The WITNESS: Yes, I recognize that.

Mr. DAVENPORT: I offer that in evidence.

(The paper produced as an exhibit was marked "Exhibit A. II. No. 15," same being a copy of "The Toledo Union Leader," dated Toledo, Ohio, Friday January 31, 1908, Vol. 1, No. 49.)

By Mr. DAVENPORT:

Q. This is the Toledo Union Leader, "The official organ of the Central Labor Union of Toledo and vicinity," and in that connection I would call attention to the fact that that is the place where this boycott was prosecuted before the filing of the original complaint in this action, and I direct attention to the portion of the paper to be found at the top of the fifth, sixth and seventh columns on the first page under the heading, "President Gompers and his appeal," the date being January 31, 1908, and particularly to the concluding sentence, "But at all times remember the unfair Buck's stove." A. I suppose you have read that article in the 860 Toledo Union Leader to which you refer and which is an attack upon me and my policies and the appeal which I issued?

Q. It speaks for itself. A. Yes. I shall want that to go in.

Q. If you can get any straw of comfort out of this kind of literature, you are welcome to it. A. No, you can. You are getting all the comfort—or you think you are.

Q. I want to call attention to this paper, the Cleveland Citizen, under date of Saturday, July 25, 1908. A. That is a copy of the Cleveland Citizen.

Mr. DAVENPORT: We offer this in evidence.

(The paper produced as an exhibit was marked Exhibit A. II. No. 16, same being a copy of the Cleveland Citizen, dated Cleveland, Ohio, Saturday, July 25, 1908, Vol. XVIII, No. 27, whole number 913.)

By Mr. DAVENPORT:

Q. I direct particular attention to the fifth column on the second page commencing at the top, "A. F. of L. Unfair List." This is dated July 25, 1908, long subsequent to the date of the restraining order and to the permanent injunction. I direct attention particularly to that portion of it which is found about the middle of the column under the heading, "Stoves," and reading as follows:

"Please remember that it is unlawful for the American Federation of Labor to

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BOYCOTT BUCK'S STOVES AND RANGES.

Justice Gould in the Equity Court of the District of Columbia on Dec. 17, handed down a decision granting the company a temporary injunction preventing the Federation from publishing this firm as

UNFAIR TO ORGANIZED LABOR.

(This is not in conflict with the injunction, but a statement of fact.)"

A. The papers which you show me for identification are all of them Socialist papers and antagonistic to the Federation and its policies.

Q. Do you mean that? A. Yes, sir.

Q. Do you mean to say the Cleveland Citizen, published by the Central Labor Union, is such a paper? A. It is such a paper.

Q. And that it is publishing these very things and the unfair list of the American Federation of Labor in opposition to the Buck's Stove & Range Company, and in sympathy with you, and because they disagree with you as to some of your political views, that that has any bearing at all on the issues of this case? A. The very fact that we dropped it from the "We-don't-Patronize" list was sufficient for them to take it up.

Q. Now, Mr. Gompers I call your attention to the September 1908 number of the American Federationist and first to pages 862 674, 678, 680, 682, 684, 686, 688, 690, and 692. A. This present month?

Q. Yes, this present month. I will ask you whether or not you caused to be inserted in the American Federationist that which appears on those pages, in the September issue, being marked, "Exhibit A. H. No. 4"? A. I would like to inquire from my counsel whether I am required to answer matters that transpired after and are not contained in the petition.

Mr. RALSTON: I do not think so. I shall advise you that you are not. They are more recent in date.

Mr. DAVENPORT: I shall insist upon it, Mr. Gompers. What is the answer? Does the witness decline to answer?

Mr. RALSTON: They are more recent dates than the application in this case.

Mr. DAVENPORT: Do you mean to say that that is immaterial.

Mr. RALSTON: I mean to say that I am coming to the feeling that this frivolous examination has gone on too long.

Mr. DAVENPORT: You have been surcharged with the sentiment that this is all frivolous.

Mr. RALSTON: Yes, I am.

Mr. DAVENPORT: Therefore this is coming a little late.

Mr. RALSTON: And I think the Court will be when he examines the record.

Mr. DAVENPORT: If it will alleviate the situation to explain a little to the distinguished counsel for the distinguished witness—no, leave out “the distinguished witness.”

The WITNESS: Yes, these epithets might as well be left out because that is all they are intended to be.

Mr. DAVENPORT: Any act or any declaration at any time which has a tendency to throw any light upon the animus with which the acts specially mentioned have been performed, is proper to be shown in proceedings of this character, under many decisions. In the second place this testimony is directly in support of the allegation in the complaint that

“Notwithstanding the said order restraining and enjoining the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell included, passed by the court on the 18th day of December, A. D. 1907, and notwithstanding the final decree in the cause, passed on the 23rd day of March, A. D. 1908, perpetually restraining and enjoining the defendants the said Samuel Gompers, Frank Morrison and John Mitchell included, all as above set out, the said Samuel Gompers, Frank Morrison and John Mitchell have, since the filing of this said bill, and the passage and entry of the said order, as well as of the final decree, frequently, regularly and systematically, wilfully, and with premeditation, violated the said order and the said final decree alike, and have totally disregarded the same; and, in so doing they have acted in gross and willful contempt of the authority of the court and its order and action in the premises, as hereinafter set out: the said Samuel Gompers having, some ten years ago, suggested the course of conduct which has been pursued in this case by him and by the said Frank Morrison and John Mitchell and all of them having since repeated that suggestion.”

And I call your attention to this allegation in paragraph 26:

“Though the said Samuel Gompers, Frank Morrison, John Mitchell and the other defendants to the original bill, their, and each of their agents, servants, attorneys, confederates, and any and all persons acting in aid of or in conjunction with them or any of them, are, by order of this court of December 18, 1907, restrained and enjoined from conspiring, agreeing or combining in any manner, to restrain, obstruct or destroy the business of the complainant or to prevent the complainant from carrying on the same without interference from them or any of them, and from interfering in any manner with the sale of the product of the complainant's factory or business by defendants, or by any person, firm or corporation, and from

declaring or threatening any boycott against the complainant, or its business or the product of its factory, or against any person, firm or corporation engaged in handling or selling the said product, and from abetting, aiding or assisting in any such boycott, and from printing, issuing, publishing, or distributing through the mails, or in any other manner, any copies or copy of the American Federationist, or any other printed or written newspapers, magazine, circular, letter or other document or instrument whatsoever, which shall contain or in

any manner refer to the name of the complainant, its business
865 or its product, in the "We Don't Patronize" or the "Unfair" list of the defendants, or any of them, their agents, servants, attorneys, confederates or other person or persons acting in aid of or in conjunction with them, or which contains any reference to the complainant, its business, or product, in connection with the term "Unfair," or with the "We Don't Patronize" list, or with any other phrase, word or words of similar import, and from publishing or otherwise circulating, whether in writing or orally, any statement, or notice of any kind or character whatsoever calling attention to the complainant's customers, or of dealers, or tradesmen, or the public, to any boycott against the complainant, its business or its product, or that the same are, or were, or have been declared to be "Unfair" or that it should not be purchased or dealt in or handled by any dealer, tradesman, or other person whomsoever, or by the public, or any representation or statement of like effect or import, for the purpose of, or tending to, any injury to or interference with the complainant's business, or with the free and unrestricted sale of its product, or of coercing or inducing any dealer, person, firm or corporation, or the public, not to purchase, use, buy, trade in, deal in, or have in possession stoves, ranges, heating apparatus, or other product of the complainant, and from threatening or intimidating any person or persons whomsoever from buying, selling or otherwise dealing in the complainant's product, either directly, or through orders, directions,

suggestions to committees, associations, officers, agents or
866 others, for the performance of any such acts or threats as hereinabove specified, and from in any manner whatsoever impeding, obstructing, interfering with or restraining the complainant's business, trade or commerce, whether in the State of Missouri, or in any other states and Territories of the United States, or elsewhere wheresoever, and from soliciting, directing, aiding, assisting or abetting any person or persons, company or corporation to do or cause to be done any of the acts or things aforesaid; yet, by the acts, means, devices and subterfuges aforesaid, the said Samuel Gompers, Frank Morrison and John Mitchell have designed and sought to continue in force and effect, and have continued in force and effect, in willful disregard, violation, disobedience and contempt of the aforesaid order and decree of this court, the boycott against the petitioner, and the conspiracy recited in the bill to destroy its business, which they and the other defendants have been and are, by the said order and decree, restrained and enjoined from continuing."

Now do you still persist in your refusal to answer this question?

Mr. RALSTON: Let me observe that even if Mr. Davenport were ab-

olutely correct in his position there has got to be a limitation even to the introduction of the most competent testimony. No court will allow that to go on indefinitely, particularly as to matters which are not in dispute, and I am going to instruct the witness that he can answer or not as he pleases.

867 Mr. DAVENPORT: *Instruct!* You cannot instruct this witness. Where do you get authority to instruct any more than I have?

Mr. RALSTON: I mean so far as my power is concerned.

Mr. DAVENPORT: For that matter the Examiner cannot instruct. Your hints to him may amount to a command but nothing further.

Mr. RALSTON: We will not enter into a dialectic argument.

Mr. DAVENPORT: Well, what is the result of this controversy? Does the witness decline to answer this question?

The WITNESS: You will hear in a moment. I am perfectly satisfied to ask my counsel. Can I consult with my attorney?

Mr. DAVENPORT: Oh, certainly.

(The witness Gompers and attorney Ralston consult together for a moment.)

The WITNESS: Inasmuch as that matter was printed after the petition was made upon the Court, and the allegations in the petition being upon acts alleged to have been committed in the past and up to that time, the petition does not include any allegation, and could not, predicated upon a matter published later. By the advice of counsel I decline to answer the question.

Mr. DAVENPORT: I will ask the Examiner to certify the question to the Court and at the same time I will ask the witness this question.

868 Mr. RALSTON: It is the duty of the Examiner to stop this examination and certify the question right now.

Mr. DAVENPORT: Not the first question.

The EXAMINER: No, I think not. He can continue on if he does not care to take it up now.

Mr. RALSTON: He waives his right to certification then.

Mr. DAVENPORT: Oh, no, he does not.

By Mr. DAVENPORT:

Q. Now, Mr. Gompers, I call your attention to the following statement contained in the Labor Day number, September 1908, at page 20 of the American Federationist:

"I notice that President Gompers, Secretary Morrison and Vice-President John Mitchell have been haled to court charged with violating the celebrated injunction order of Judge Gould. Money makes the mare go and Mr. Van Cleave's money is making this contempt case go, but we have had Van Cleaves before and will have them in the future and labor will rise in its might and crush Mr. Van Cleave and all his money that may work now or in the future for the purpose of restricting labor in its fundamental rights of free speech and free press." Did you cause that to be published?

Mr. RALSTON: I give the same instruction.

Mr. DAVENPORT: I object to the offensive term, "Instruction."

869 The WITNESS: Surely if I do not object to it you should not. I am perfectly satisfied to be instructed.

Mr. DAVENPORT: I have some privileges here.

The WITNESS: As to instructions to me?

Mr. DAVENPORT: Instructions, yes.

The WITNESS: I supposed you wanted to protect me.

Mr. DAVENPORT: This is an absolute impertinence for counsel to instruct a witness in a proceeding of this kind. The witness cannot pass upon the materiality or relevancy or competency of any question; much less can his counsel be permitted to break in and interrupt the course of the examination and attempt thereby to delay and to defeat it.

The WITNESS: The money——

By Mr. DAVENPORT:

Q. (Interrupting.) Here is the question. Do you decline to answer that question? A. Let me answer as best I can now that question by saying that the money referred to in there pays your retainer, pays all your legal expenses of the Buck's Stove & Range Company in this suit.

Q. I object to the answer as irresponsible to the question. A. It is true.

Q. It is irresponsible and improper. A. But it is true.

Q. And I object to it and ask that it be stricken out. A. If it is stricken out it will be still true.

870 Mr. RALSTON: The Examiner cannot strike it out.

Mr. DAVENPORT: I move to strike it out. Now, Mr. stenographer will you repeat that question? I am going to have a ruling on this. Read it in full.

(The stenographer read the question referred to as follows:)

"I call your attention to the following statement contained in the Labor Day number, September 1908, at page 720 of the American Federationist, and to the following statement:

'I notice that President Gompers Secretary Morrison and Vice-President John Mitchell have been haled to court charged with violating the celebrated injunction order of Judge Gould. Money makes the mare go and Mr. Van Cleave's money is making this contempt case go. But we have had Van Cleaves before and will have them in the future and labor will rise in its might and crush Mr. Van Cleave and all his money that may work now in the future for the purpose of restricting labor in its fundamental rights of free speech and free press.'"

Did you cause that to be published?

Mr. RALSTON: I give the same instructions Mr. Gompers.

The WITNESS: Which I accept and obey.

Mr. DAVENPORT: And what? Do you decline to answer?

The WITNESS: I decline to throw myself upon your protecting wings.

871 Mr. DAVENPORT: Do you decline to answer?

The WITNESS: I decline to answer.

Mr. DAVENPORT: I ask then that that matter be certified by the Examiner.

By Mr. DAVENPORT:

Q. Let me call your attention to the following statement under the heading, "Editorials by Samuel Gompers," contained in the article to be found on pages 724, to 728 inclusive of the September number 1908, of the American Federationist. A. In an editorial?

Q. Under the heading, "Editorial." I suppose it is an editorial.

A. Is that editorial thunder?

Q. I don't know. I call your special attention to the following paragraph which appears on page 725 of the issue of the American Federationist for September 1908:

"We have also witnessed in the past year most serious judicial invasion and usurpation of individual liberty and human freedom by the abuse of the writ of injunction. An attempt has been made by the use of the writ of injunction to deny and prohibit *the freedom of speech and the freedom of the press*, and men have been cited to show cause why they shall not be punished for the exercise of the right of free press and free speech, rights not only natural and inherent in themselves, but guaranteed by the constitution of our country, and which our forefathers fought to establish, and which a free people never dreamed would ever be placed in jeopardy."

Did you cause that to be published in the September 1908 American Federationist?

Mr. RALSTON: I give the same instruction, Mr. Gompers.

The WITNESS: That is a matter of editorial expression. It involves the right of free press. I decline to answer or even to discuss the matter with you.

By Mr. DAVENPORT:

Q. In brief do you decline to answer the question? A. I think I have emphasized that statement in the affirmative.

Q. I take it that all that verbiage is this, that, "I do refuse to answer." A. You do?

Q. I take it that you mean that by your statement. Do you decline to answer that question? Answer it yes or no. A. If you do not shake your finger at me, I will answer.

Q. I did not shake it at you. I hit the table with it. A. You had better not. I decline to answer the question for the reasons that I have given.

Mr. DAVENPORT: I ask that that question be certified by the Examiner.

873 By Mr. DAVENPORT:

Q. Now, Mr. Gompers, has this number of the American Federationist been issued? A. I decline to answer that question.

Q. September number, 1908? A. I decline to answer that question.

Q. Has it not been issued and widely distributed? A. I decline to answer that question.

Mr. DAVENPORT: I ask that those questions be certified. Now,

Mr. Examiner, I suppose that the gentlemen have put a brake on the proceedings at this point unless this matter of certification can be deferred.

Mr. RALSTON: No, it cannot be so far as we are concerned.

Mr. DAVENPORT: I will ask that Mr. Morrison be recalled to the stand now and we will try to make some progress with him.

Mr. RALSTON: What is the reading of the rule Mr. Examiner—that the proceedings go forthwith to the Court?

The EXAMINER: Yes.

Mr. RALSTON: Then we ask that that course be taken.

The EXAMINER: It cannot go to the Court until it is written out.

Mr. DAVENPORT: At what time will you have this in shape for presentation to the Court?

The EXAMINER: By Monday morning.

Mr. DAVENPORT: Very well.

874 The EXAMINER: You ought to give notice of your intention to present the certification. Will you accept such notice, Mr. Ralston?

Mr. RALSTON: I will accept notice for Monday morning provided that Mr. Davenport at the same time will waive notice of the motion and of an affidavit under it to limit and define the scope of the examination in this case.

Mr. DAVENPORT: What about that? I guess not. I do not think I will do that. I want one job at a time.

Mr. RALSTON: Then I will ask for formal notice of certification and in that event it will come up Tuesday or Wednesday.

Mr. DAVENPORT: In order that the continuity of things may not be interrupted even in this way, do you take a formal adjournment to a fixed time?

The EXAMINER: I think we had better do so. We will adjourn until Monday afternoon, September 21, at 2 o'clock, and then we can adjourn from day to day if necessary until this matter is finally determined.

The hearing was thereupon adjourned until 2 o'clock p. m. Monday September 21, 1908.

And said questions requested by Solicitors for petitioner to be certified are accordingly this 18th day of September, 1908, certified to the Court for its determination.

ALBERT HARPER,

Examiner in Chancery.

875 "HEADQUARTERS AMERICAN FEDERATION OF LABOR,

WASHINGTON, D. C., Sept. 21, 1908.

Met pursuant to adjournment.

Present: Daniel Davenport, Esquire, on behalf of the petitioner.

Present: Jackson H. Ralston, Esquire, in behalf of the respondents.

Also present: Samuel Gompers, and the Examiner.

Whereupon RUSSELL B. PATTERSON, produced as a witness, having been first duly sworn, testified as follows:

By Mr. DAVENPORT:

Q. State your name, residence and occupation. A. Russel B. Patterson; 2016 Fifteenth street, Washington, D. C. I am employed in the Congressional Library.

Q. And what is your age? A. Nineteen years old.

Q. Have you with you the volume of the United Mine Workers' Journal, number 18? A. I have.

Q. Will you produce it? A. This is it, (witness producing volume).

Q. Is this volume on file in the Congressional Library? A. Yes sir.

Q. I call your attention to the issue of the United Mine Workers' Journal, dated December 5, 1907, at page 4, fifth column. This is, Mr. Ralston, the circular letter sent out under date of November 26th, 1907, "to all organized labor and friends," and signed by Samuel Gompers, President of the A. F. of L., and attest, Frank Morrison, Secretary, "By Order of the Executive Council of the American Federation of Labor." The circular letter reads as follows:

"Long Distance Telephone Main 3871-2.
Cable Address, 'Afel.'"

Union Label No. 1.

423-425 G St. N. W.,

WASHINGTON, D. C., November 26, 1907.

To All Organized Labor and Friends:

"You undoubtedly are aware of the fact that the interests of the Foundry Employés and Metal Polishers have been greatly injured on account of the hostile action of the Buck's Stove and Range Company of St. Louis, of which Mr. Van Cleave is president, and he is also president of the National Association of Manufacturers.

"As you are well aware, so inimical to the welfare of labor was the Buck's Stove and Range Company's management that the organization concerned felt obliged to declare the products of that company unfair. The workmen's organization appealed to the American Federation of Labor to endorse its action. After due investigation that endorsement was given and is still further affirmed. The circumstances leading to this action are so widely known that they need not here be recounted.

"Mr. Van Cleave, for the Buck's Stove and Range Company, brought suit against the American Federation of Labor and its Executive Council and has petitioned the Court for an injunction to prohibit the American Federation of Labor from in any way advising organized labor and its friends of the fact that the Buck's Stove and Range Company is unfair to its employés and for that reason its name is published upon the American Federation of Labor 'We don't Patronize List.'"

"The court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove and Range Company upon the 'We Don't Patronize List.' Should we be enjoined by the court from doing so, the merits of the case will not be altered nor can any court decision take from any man the right to bestow his patronage where he pleases.

"Mr. Van Cleave, President of the Buck's Stove and Range Company, also president of the National Association of Manufacturers, is raising a war fund of one million and a half dollars to crush organized labor. You already know the attempts that have been made with a part of that money to assassinate the character of the active men in the labor movement to corrupt them and buy them over, much of which was exposed at a recent Norfolk convention of the American Federation of Labor and more of which will be published in a pamphlet about to be issued.

"Bear in mind that you have a right to decide how your money shall be expended.

"You may or may not buy the products of the Buck's Stove and Range Company.

878 "There is no law or edict of court that can compel you to buy a Buck's stove or range.

"You cannot be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove and Range Company's products of its unfair attitude towards its employes and ask them to give their sympathy and aid in influencing the Buck's Stove and Range Company to deal fairly with its employes and come to an honorable agreement with the union primarily at interest.

"It would be well for you as central bodies, local unions, and individual members of organized labor and sympathizers to call on business men in your respective localities, urge their sympathetic cooperation and ask them to write to the Buck's Stove and Range Company of St. Louis, urging it to make an honorable adjustment of its relation with organized labor.

"Act energetically and at once. Report the result of your effort to the undersigned.

SAMUEL GOMPERS,

President American Federation of Labor.

Attest:

FRANK MORRISON, *Secretary.*

"By order of the Executive Council of the American Federation of Labor."

879 I now call your attention to the United Mine Workers' Journal dated December 20, 1907, at page 4. (Reading:)

"United Mine Workers' Journal."

Published Weekly by the National Executive Board of the United Mine Workers of America.

S. M. Sexton, Editor, 1102 State Life Building, Indianapolis, Ind.;
W. B. Wilson, Business Manager, 1106 State Life Building.

"Official Roster of U. M. W. of A."

"President, John Mitchell, 1111, State Life Building, Indianapolis, Ind."

This column is just the same as that to be found in petitioner's exhibit number 3. Under the heading, "Editorial Page," near the top in the third column I find the following:

"NOTHING NEW."

"Judge Gould, of the United States Circuit Court has decided that the unfair list is a conspiracy and that you must not say to one another or print the fact that Van Cleave's Buck's Stove Company is unfair, does not pay fair wages, nor have fair conditions under which labor is performed, and if you ask a brother unionist not to buy a Buck stove you are a conspirator.

"That is nothing new. It is possible that while Judge Gould was a child that it was 'conspiracy' to help a colored bondsman escape from his master. Also, it was conspiracy for two or more men to meet on the street corners. 'Conspiracy' is the gum elastic term to cover any or all things needed to subjugate liberty or stifle aspirations for freedom. But people will be told and shown that the Buck stove is unfair, Judge to the contrary notwithstanding."

I now call attention to the United Mine Workers' Journal, dated Indianapolis, Thursday, January 2, 1908, on the fourth page, under the heading "Editorial Page," near the bottom, the following article:

"A FRATERNAL ACT."

"In an article taken from the Chicago Daily Socialist, published elsewhere in this issue of the Journal, will be found a fine illustration of the fact that the Van Cleave aggregation stirred up a beautiful mess of trouble for itself when it sought to stifle the unfair list by judicial decree.

"Where the court could by one decree put a muzzle on the labor press, the Chicago Daily Socialist shows that it will take over three thousand separate decrees to similarly muzzle the socialistic press, and it throws down the gauntlet and publishes every unfair firm upon the A. F. of L. list.

"But the Journal believes that the Daily Socialist is mistaken when it says that the labor press will be muzzled. It is more than probable that the decree will be ignored. But the act of the Daily Socialist shows that there was never a separate heart-beat among freemen, where their liberties were endangered."

On page 8 of the same issue (Thursday, January 2, 1908), in the first three columns, under the heading "Socialist Papers" in large type, and under that, "Defy the Employers' Association to attempt to secure injunction against boycott," and under that, "Late Suit Against A. F. of L." and under that, "Has Roused Socialists to State of Belligerency," and then the following:

"The American Federation of Labor and its officers have been enjoined against notifying trade unionists and the working class in general of the attitude of firms toward organized labor. Because the Employers' Association went to the trouble to get out this injunction it would appear that it had been somewhat effective.

"Up to the present time the Socialist press has not been enjoined. It is not under the jurisdiction of the American Federation of Labor or any union. It is fighting the battles of the entire working class, but is especially interested in the organized portion because that portion is the most advanced and is the one that is fighting for better conditions.

"The Socialist press has a far wider circulation than the trade union press. Most of the trade union papers have no circulation beyond the membership of the trade which they represent, and, except where the circulation is forced, seldom reaches the whole membership.

"The Chicago Daily Socialist reaches far more possible consumers each day than almost any trade union journal does monthly. Other socialist papers reach hundreds of thousands more.

"If the capitalist class wishes to make a fight on this point, let the Socialist press accept their challenge.

"It can print the news about every firm that is fighting organized labor, that is trying to reduce the standard of life for those who do the work of the world. The socialist papers can and will print this as a matter of news.

"Where the publication in the trade union journals reached thousands, publication in the socialist press will reach tens of thousands. Let us show the capitalists that every blow delivered upon the working class, like hammer blows upon the white-hot iron, only serve to drive the particles closer together and forge a more effective weapon.

"It will be necessary for the Employers' Association to secure a separate injunction against every socialist paper that publishes such a list, and by the time all these injunctions are secured, there will have been such a campaign of education, paid for by the Employers' Association, that there will no longer be any need of a boycott.

"Here is the list of firms that have been fighting organized labor, as it appeared in the latest issue of the American Federationist:

"Food and Kindred Products.

"Bread.—McKinley Bread Co., St. Louis, Mo.

Cigars.—Carl Upman, New York City; Kerbs, Wertheim & Schiffer, New York City, manufacturers of the Henry George and Tom Moore cigars; Rosenthal Co., New York City, manufacturers of the Bill Dugan, King Alfred, Peiper Heidseick, Joe Wolcott, Big Bear,

Diamond D, El Tiladdo, Jack Dare, Little Alfred, Club House, Our Bob, 1105 Royal Arcanum eigers.

"Flour.—Washburn-Crosby Milling Co. Minneapolis, Minn.; Valley City Milling Co., Grand Rapids, Mich.

883 "Groceries.—James Butler, New York City.

"Meat.—Jones-Lamb Co., Baltimore, Md.

"Tobacco.—American and Continental Tobacco companies.

"Whiskey.—Finch Distilling Co., Pittsburg, Pa.

"Clothing.

"Clothing.—N. Snellenberg & Co., Philadelphia, Pa.; Clothiers' Exchange, Rochester, N. Y.; B. Kuppenheimer & Co., Chicago, Ill.; Saks & Co., Washington, D. C., New York City and Indianapolis, Ind.

"Corsets.—Chicago Corset Co., manufacturers Kabo and La Marguerite corsets.

"Gloves.—J. H. Cownie Globe Co., Des Moines, Ia.; California Glove Co., Napa, Cal.

"Hats.—J. B. Stetson Co., Philadelphia, Pa., E. M. Knox Co., Brooklyn, N. Y.; Henry H. Roelof & Co., Philadelphia, Pa.

"Shirts and Collars.—United States Shirt & Collar Co., Troy, N. Y.; Van Zandt, Jacobs & Co., Troy, N. Y.; Cluett, Peabody & Co., Troy, N. Y.; James R. Kaiser, New York City,

"Printing and Publications.

"Bookbinders.—Boorum & Pease Co., Brooklyn, N. Y.

"Printing.—Hudson, Kimberly & Co., printers, Kansas City, Mo.; W. B. Conkey & Co., publishers, Hammond, Ind.; Times, Los Angeles, Cal.; Philadelphia Inquirer, Philadelphia, Bulletin.

884 "Pottery, Glass, Stone and Cement.

"Pottery and Brick.—Northwestern Terra Cotta Co., Chicago, Ill.; Corning Brick, Tile and Terra Cotta Co., Corning, N. Y.

"Cement.—Portland Peninsular Cement Co., Jackson, Mich.; Utica Hydraulic Cement & Utica Cement Mfg. Co., Utica, Ill.

"Machinery and Building.

"General Hardware.—Landers, Frary & Clark, Aetna Co., New Britain, Conn.; Brown & Sharpe Tool Company, Providence, R. I.; John Russell Cutlery Co., Turner's Falls, Mass.; Henry Disston & Co., Philadelphia, Pa.; New York Knife Co., Walden, N. Y.

"Iron and Steel.—Illinois Iron & Bolt Co., Carpentersville, Ill.; Casey & Hodges, Chattanooga, Tenn.; Lincoln Iron Works (F. R. Patch Mfg. Co.), Rutland, Vt.; Erie City Iron Works, Erie, Pa.; Singer Sewing Machine Co., Elizabeth, N. J.; Pittsburg Expanded Metal Co., Pittsburg, Pa.; American Hoist & Derrick Co., St. Paul, Minn.; Standard Sewing Machine Co., Cleveland, Ohio; Manitowoc Dry Dock Co., Manitowoc, Wis.

"Stoves.—Wrought Iron Range Co., St. Louis, Mo.; United States

Heater Co., Detroit, Mich.; Gurney Foundry Co., Toronto, Ont.; Home Stove Works, Indianapolis, Ind.; Buck's Stove & Range Co., St. Louis, Mo.

"Wood and Furniture.

"Bags.—Gulf Bag Co., New Orleans, La.; branch Bemis Bros., St. Louis, Mo.

"Brooms and Dusters.—The Lee Broom & Duster Co., Davenport, Ia.; M. Goeller's Sons, Circleville, Ohio; Merkle-Wiley Broom Co., Paris, Ill.

"Fiber Ware.—Indurated Fiber Ware Co., Lockport, N. Y.

"Furniture.—American Billiard Table Co., Cincinnati, Ohio; O. Wisner Piano Co., Brooklyn, N. Y.; Krell Piano Co., Cincinnati, Ohio; Werby Desk Co., Boston, Mass.

"Gold Beaters.—Hastings & Co., Philadelphia, Pa.; J. J. Keeley, New York City; F. W. Rauskolb, Boston, Mass.

"Lumber.—Reine Bros. & Solomon, Baltimore, Md.; St. Paul & Tacoma Lumber Co., Tacoma, Wash.; Grays Harbor Commercial Co., Cosmopolis, Wash.

"Leather.—Lurch Bros., Baltimore, Md.

"Rubber.—Lambertville Rubber Co., Lambertville, N. J.

"Wall Paper.—William Bailey & Sons, Cleveland, Ohio.

"Wagons.—The Hickman-Ebbert Co., Owensboro, Ky.; Owensboro Wagon Company, Owensboro, Ky.; F. A. Ames Co., Owensboro, Ky.

"Watches.—Keystone Watch Case Co., Philadelphia, Pa.; Jos. Fahy, Brooklyn Watch Case Co., Sag Harbor; T. Zurbrugg Watch Case Co., Riverside, N. J.

"Wire Cloth.—Thos. E. Gleeson, East Newark, N. J.; Lindsay Wire Weaving Co., Collingwood, Ohio.

"Miscellaneous.

"Bill Posters.—Bryan & Co., Cleveland, Ohio; A. Van Buren Co., and New York Bill Posting Co., New York City.

886 "Hotels.—Reddington hotel, Wilkesbarre, Pa.

"Railways.—Atchison, Topeka & Santa Fe Railroad; Missouri, Kansas & Texas Railway Company.

"Telegraphy.—Western Union Telegraph Co. and its messenger service.

"D. M. Parry, Indianapolis, Ind.

"Thomas Taylor & Son, Hudson, Mass.

"C. W. Post, manufacturer of Grape Nuts and Postum Cereal, Battle Creek, Mich.

"There is our answer to the attack of the organized capitalists upon organized labor. That list will be read by more people today than ever before since it was compiled. If its publication hitherto has been a help to labor its infinitely wider spread today, with the added emphasis of a court decision declaring that it has found a weak spot in the defenses of the enemy, will give still greater strength and solidarity to working class resistance of exploitation.

"If capital desires to make war upon labor, the latter will not permit the gage of battle to remain upon the field.

"When the ruling class of the United States declared war upon the Western Federation of Miners and sought to judicially lynch its officials, that act was a rallying cry that assembled the hosts of producers and forced them into an army that inflicted such a defeat upon King Capital as he had never received upon this continent.

"When by lying and chicanery the same ruling class sought to divide and disrupt the forces of the American Federation of Labor by attacks upon its officers, the result was to drive out even the divisions that had previously existed and produce a solidarity
887 that years of work by the trade unionists themselves could never have created.

"When the courts of the United States are prostituted to the purpose of suppressing the freedom of the press and the right of the workers to inform each other of the existence of their enemies, the response should be such an extension of such information as will render the boycott ten times more effective than ever before.

"If the capitalists want war, let them have it. There is no field upon which the workers are not sure of victory, because it is the workers who fight all battles, who elect all officials, who support all capitalists.

"Just as soon as the workers wake up to the fact that they are in a fight, they are victorious.

"These attacks of capitalists are waking them up.—Chicago Daily Socialist."

Mr. DAVENPORT: Do you want to inquire, Mr. Ralston?

Mr. RALSTON: No.

Mr. DAVENPORT: Is this the volume that is on file in the Congressional Library?

The WITNESS: Yes sir.

Mr. DAVENPORT: Being Volume 18 of the United Mine Workers' Journal, 1907-1908, Indianapolis?

The WITNESS: Yes sir.

Mr. RALSTON: We do not make any question about that.

Mr. DAVENPORT: Well, that is all I have.

(Witness excused.)

RUSSELL B. PATTERSON.

Subscribed and sworn to before me this 21st day of September, 1908.

ALBERT HARPER, *Examiner*.

888 Mr. DAVENPORT: Now, Mr. Gompers, I do not suppose you care to testify on any other subject than those that have been inquired about, and I understand that Mr. Morrison, on account of illness in his family, cannot be here. Can we adjourn until three o'clock tomorrow afternoon?

Mr. RALSTON: We had better adjourn until Wednesday morning.

Thereupon an adjournment was taken until ten o'clock Wednesday morning, September 23, 1908.

ALBERT HARPER, *Examiner*.

889 In the Supreme Court of the District of Columbia.

WASHINGTON, D. C., TUESDAY, September 22, 1908.

*Proceedings on Motion to Require Witness to Answer Questions
Certified to the Court.*

The above proceedings came on to be heard before Mr. Justice Clabaugh at 10:40 o'clock a. m.

Present on behalf of the petitioner: Daniel Davenport, Esquire.

Present in behalf of the defendants: Alton B. Parker and Jackson H. Ralston, Esquires.

Also present: Samuel Gompers, one of the respondents.

Mr. Davenport addressed the court in support of his motion to compel the witness to answer the pending questions.

Mr. Parker addressed the court in opposition to Mr. Davenport's contention.

890

Decision of the Court.

The COURT (MR. JUSTICE CLABAUGH): I shall decide this case now, and in deciding it I would feel very much disturbed if I supposed that counsel on either side would feel that my action showed any indifference to the very able arguments that have been made.

I think most of the argument that has been made in the case has nothing to do with the question before me as a matter of practice, and I shall decide this case purely as a matter of practice. In other words, the question comes to me on a very simple proposition, one which is very familiar to us, and one which has come up rather more frequently in this District, I think, than elsewhere.

The question is, shall a witness on the stand before an Examiner be permitted to refuse to answer questions on the ground that they are immaterial to the issue before the court.

Now, I put some stress upon the phrase, "immaterial in this case", because I think that question is decisive of the answer to it.

If the witness had said it is a question the answer to which would tend to defame him or incriminate him, or anything of that kind, then the court, in my judgment, would have the right to say to that witness, "You need not answer that question"; but the record in this case shows that the question is objected to solely on the ground that it is immaterial.

891

The time of counsel in this case has been used to argue—what? That the decree upon which this present proceeding is based is absolutely void, and this member of the court is asked to say that the decree formerly passed by the court is a void decree.

No effort at review was made, no argument was asked, but the decree in this particular instance was presented, as I recall, by counsel for the defendant himself, with the order for an appeal appended thereto.

Now, that being so, when the question comes up upon a contempt proceeding and a member of the court is asked to decide, upon the

ground that certain questions are immaterial, that the former order and likewise the decree, were absolutely void, it seems to me the practice in our court is involved, and I think it would be absolutely destructive of the efficacy of any order that any judge might make, so long as any other judge might set it aside. I cannot think that that practice would commend itself to anyone, and yet that would be the effect of it here.

While I recognize the importance of this case, its importance does not change, of course, the rules of practice, does not change the rules of law.

The rule of our court has been invoked in defense of this practice, and that part of it says; "and any question or questions which may be objected to shall be noted by the Examiner upon the deposition; but he shall not have power to decide on the competency, materiality or relevancy of the questions, and the court shall
§92 have power to deal with the costs of incompetent, immaterial or irrelevant depositions, or parts of them, as may be just."

In other words, if counsel in any given case undertakes to inflate the record, to put in the record that which is utterly immaterial or wholly irrelevant to the case, and impose upon the defendant, perhaps, if the plaintiff is offering the testimony, a very large bill of costs, which might be just as destructive to him as a judgment against him would be, then the court can regulate that. It can say to counsel, "If you put into this case matter that is immaterial and irrelevant, you shall bear the expense of that testimony." That provision of this rule was meant to cover that case.

Now, then, the rule says that if the witness refuses to attend a session, or to be sworn, or to answer any question put by the Examiner or by counsel or solicitor, the facts shall be reported to the court by the Examiner, when such order shall be made as may be deemed best.

Why, of course, various orders may be passed. The witness may refuse to answer because it tends to incriminate him. The court may sustain the witness. But just think for one moment as to the result of this practice, if the court is to be appealed to in these cases. A great deal of time has been spent by counsel in studying this case, and searching authorities that bear upon it. The witness has come into court, using his time.

Now, as an instance, this same thing might happen fifty times in the course of this case, refusal to answer being made upon the
§93 same ground. What redress is there? Suppose the court directs the witness to answer, and he answers a question in the negative, then nothing has been secured by it. If it is material, he can not be contradicted. It would be binding upon the party that calls him.

Suppose, on the other hand, he answers it and it develops that it is immaterial. No harm has been done to him in that case.

The rule says, "And any question or questions which may be objected to shall be noted by the Examiner."

Objection is noted. It goes to the court, and the court then passes

upon the question of materiality, whether the question is material or not. So that no harm is done the party.

The one possible harm is the taking up of the time in putting in this immaterial testimony. That is not ordinarily done. If it is done, the harm will be visited upon the party that does it.

So that whilst I can see there may be questions that, when certified to the court, the court would perhaps hold that the witness need not answer, because it would be so perfectly patent to the court that they were immaterial to the issue and that it would be waste of time to go into them, yet generally I have considered that the practice of certifying questions to the court is a practice that should not be encouraged, that these questions ought not to be certified to the court but that they ought to be allowed to go in, together with the answers thereto and objections to the testimony, and then upon final hearing the court can pass upon the relevancy of the questions and
894 answers, and the whole record can then go before the Court of Appeals in the ordinary way.

Now, as to the relevancy of these matters. Surely it must occur to counsel that it is a very serious question.

I do not pretend to pass upon it, and I am only making this comment to endeavor to persuade the learned gentlemen in this case that I am not unmindful of their industry, and the help that they have given me on this general subject; but, at the same time, it seems to me it would be a very dangerous thing for a judge to undertake to pass upon a question like this, really not before him, in a purely collateral way, in a proceeding of this character, which might result in an opinion not favorable to the defendant in this case, and in the overriding of the mature deliberations of another judge of the same court.

It seems to me that by the very statement of the proposition it will be manifest to counsel that the court ought not to take up the subject, on a record such as this.

The court might decide the testimony to be immaterial. Subsequent proceedings might make it most material. I only suggest that as reflecting on the danger of the court deciding such a question, even if it has authority to do it; and therefore I decide the question before me solely on the ground of practice. I think these questions ought to be answered and the objections made to them on the record, and then the trial judge who tries this case will have before him the entire record. Then he may, if he desires, pass upon
895 the constitutional question, as to whether or not an offense has been committed. The whole question will be before him, and it will be very much fairer to the parties to this cause, to both of them, to have it presented in that shape.

So, I think in deciding this case I am consistent with other decisions I have made. I think the questions ought to be answered, and then explanations made in the usual way.

Mr. RALSTON: I think we would all agree that it was entirely immaterial who performed the physical act of handing the decree to your Honor. The fact that I handed it to you is not material.

Mr. Sullivan was here at the time, representing the complainant. I think the fact that I was the one who handed it in does not give it any particular sanctity.

The COURT: Oh, no; I did not intend to convey any such thing. What I meant to convey was the idea that the counsel did not even consider the question before me in any way at all, that the appeal was entered on the decree when it was handed to me.

Mr. RALSTON: There were no features of it discussed at all.

The COURT: No; I knew nothing about it. I did not even read it, because counsel had agreed on the form of the decree, not as to its binding effect, because you had noted your appeal before I came here.

(The order of the Court is as follows:)

96 "In the Supreme Court of the District of Columbia.

No. 27305. Eq.

THE BUCK'S STOVE & RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

Order.

"The Court, upon consideration of the motion by the complainant's solicitor that the witness Samuel Gompers answer the following questions, to wit:

1. "Now, Mr. Gompers, I call your attention to the September 1908 number of the American Federationist and first to pages 674, 678, 680, 682, 684, 686, 688, 690 and 692. I will ask you whether or not you caused to be inserted in the American Federationist that which appears on those pages, in the September issue, being marked Exhibit A. II. No. 4?"

2. "Now, Mr. Gompers, I call your attention to the following statement contained in the Labor Day number, September, 1908, at page 720 of the American Federationist and to the following statement:

"I notice that President Gompers, Secretary Morrison and Vice-President John Mitchell have been haled to court charged with violating the celebrated injunction order of Judge Gould. Money makes the mare go and Mr. Van Cleave's money is making
897 this contempt case go, but we have had Van Cleaves before and will have them in the future and labor will rise in its might and crush Mr. Van Cleave and all his money that may work now or in the future for the purpose of restricting labor in its fundamental rights of free speech and free press.' Did you cause that to be published?"

3. "I call your special attention to the following paragraph which appears on page 725 of the issue of the American Federationist for September 1908:

'We have also witnesses in the past year most serious judicial invasion and usurpation of individual liberty and human freedom by the abuse of the writ of injunction. An attempt has been made by the use of the writ of injunction to deny and prohibit *the freedom of speech and the freedom of the press*, and men have been cited to show cause why they shall not be punished for the exercise of the right of free press and free speech, rights not only natural and inherent in themselves, but guaranteed by the constitution of our country, and which our forefathers fought to establish, and which a free people never dreamed would ever be placed in jeopardy.' Did you cause that to be published in the September 1908 American Federationist?"

4. "Now, Mr. Gompers, has this number of the American Federationist been issued?"

5. "September number 1908?"

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6. "Has it not been issued and widely distributed?"

in the course of the taking of testimony before Albert Harper, Examiner, in the contempt proceedings instituted herein, hereby, this 23rd day of September, A. D. 1908, orders and directs that the said witness Samuel Gompers answer the said questions, and that any objections to questions or the answers thereto interposed by the solicitors of either of the respective parties be noted by the Examiner and entered upon the record.

(Signed)

HARRY M. CLABAUGH,

Chief Justice.

899

WASHINGTON, D. C., September 23, 1908.

Met pursuant to adjournment, at the same place, at 10:30 o'clock a. m.

Present in behalf of the petitioner: Daniel Davenport, Esquire.

Present in behalf of the respondents: Jackson H. Ralston, Esquire.

Also present: Mr. Samuel Gompers, one of the defendants.

MR. GOMPERS: Before proceeding, I want to make a very brief statement. Though neither counsel nor myself have been shown a copy of the opinion and order of Justice Clabaugh, I understand my counsel to waive that formality.

MR. RALSTON: Yes.

MR. GOMPERS: I also am willing to waive that, having been present when Judge Clabaugh rendered his decision and expressed his opinion upon which it is based. Inasmuch as Justice Clabaugh declined to discuss or consider the question upon the principles and law involved, and decided that the questions must be answered under the practice, I yield to the Justice's order, because my refusal to answer, according to the order, cannot be determined upon appeal other than on the practice; I therefore yield and answer under protest.

SAMUEL GOMPERS resumed the stand for further examination.

By Mr. DAVENPORT:

Q. Before repeating to you the questions which you declined to answer at the session held on Friday last, and which you were directed to answer, I will, in order to preserve the chronological sequence of some matters, direct your attention to some other matters connected with those matters I was inquiring about. A. Are these questions, then, to be withdrawn?

Q. No. I am going to repeat them later. But in order that the record may be more intelligible, in connection with the matters that have gone before, I wish you to defer asking the questions which the court has directed you to answer, until later, and now put some other questions.

The WITNESS: Ought I not to answer the questions which have been propounded to me, and which the court has directed that I shall answer?

Mr. DAVENPORT: Yes, and they will be repeated to you later.

Mr. RALSTON: I will advise the witness that it makes no material difference as to the order in which the questions are put, whether Mr. Davenport asks those particular questions at present or later, or in fact whether he waives them altogether.

Mr. DAVENPORT: Those questions will open up a subject which will occupy some space in the record, and I prefer to have these other matters closer together in the record.

The WITNESS: In saying that I answer under protest, that refers to every matter to which I have testified or may hereafter testify in these proceedings, which applies to anything which I have uttered, orally or in print.

Mr. RALSTON: I may add that to all those matters, as well as generally, we have reserved and do reserve all objections and exceptions, as to their relevancy and competency and materiality.

Mr. DAVENPORT: I assent to that reservation.

By Mr. DAVENPORT:

Q. I call your attention to the following, from your testimony given on January 30, 1908, in the original case, to be found on pages 811 and 812 of the original record, and on pages 450 and 451 of the transcript of record.

“By Mr. DAVENPORT:

“Q. On the 22nd day of November, in pursuance of the directions given to you by the Convention of The American Federation of Labor, did you prepare a circular letter which was signed by yourself as president, and by Mr. Morrison as Secretary, addressed ‘To all Organized Labor And Friends?’ A. In reference to what?

“Q. In relation to this boycott of The Buck's Stove & Range Company? A. I would like to see to what you refer, and if it is either one that I prepared, or one that I issued, I should recognize it immediately, and give you a definite answer.

"Q. Can you not do so otherwise? A. No; not with absolute accuracy.

902 "Q. Do you recollect preparing one of that character? A. I recollect that a circular was prepared by me on that matter, but whether I gave directions for its printing, or whether it was printed I cannot, on my affirmation, aver. I will be glad to answer definitely if you will show me to what you refer, so as to avoid the necessity of going around it.

"Q. I will show you a copy of the evidence in this case, and call your attention to page 92 of the record and ask you to state whether you prepared the letter of which this purports to be a copy. A. There is a word out, I think, judging from my memory—omitted. Otherwise, I think it is accurate. The circular is accurate, except for the omission of that word.

"Q. You had it sent out? A. Yes sir.

"Q. To whom did you have it sent? A. To secretaries of affiliated organizations; to organizers; to the labor press, and to some of the newspapers.

"Q. Did you give it to the Associated Press? A. I may have done so. I am not sure. That is a mere detail. I ordered it sent out generally.

"Q. Did you do this after the arguments of the case on the hearing before Justice Gould for the preliminary injunction? A. That, the dates of the argument and of the circular would bear out better than I can state from memory.

903 "Q. Mr. Darlington suggests that the arguments were in progress while you were at Norfolk, and this was after you returned, I take it. A. Then it was issued after the arguments."

And I also direct your attention to the following, from the same deposition, on pages 816 and 817 of the original record, on page 453 in the transcript of record in the Court of Appeals. (Reading:)

"Q. The circular which you sent out under date of November 26th is addressed to 'All Organized Labor and Friends.' Whom did you comprehend under the term 'friends?' A. Those who sympathized, in some form or other, with the workmen and their hopes of betterment. Of course, this may have been sent to a few individuals as such friends; but I would not undertake to have The American Federation of Labor bear the expense of sending such a circular to all our friends.

"Q. I suppose it embraces all who consider themselves the friends of organized labor? A. And whom we could, within reason, reach without incurring much expense."

And to your testimony on the same occasion, to be found on pages 821 and 822 and following of the original record, and page 455 and following of the transcript of record.

"By Mr. DAVENPORT:

904 "Q. Are you familiar with any of the papers that are issued by these Central Labor Unions? A. I do not know which of the labor papers are the private property of individuals, or those which are owned or edited by the Central Labor Unions

"Q. I inquire whether you are familiar with a paper called 'The Cleveland Citizen?' A. Yes sir.

"Q. Which is published by the Central Trades & Labor Union of Cleveland? You are familiar with it? A. I am.

"Q. Have you seen a copy of it? A. Often.

"Q. Recently? A. No sir.

"Q. Has one been sent to you recently? A. I do not know; but I suppose so."

Mr. RALSTON: Can we not stipulate that anything in that record shall be considered as in this record?

Mr. DAVENPORT: I want to bring this directly to the attention of the witness. There is so much in this transcript in the Court of Appeals for the District of Columbia, that to refer to the testimony generally would be too indefinite, it would be like hunting for a needle in a hay-stack.

(Continuing to read from transcript of record, Court of Appeals, at page 455:)

"Q. Do you recognize that as a copy? (Handing witness a paper). A. Yes.

905 "Mr. PARKER: Before you proceed with the reading of that article, I want to enter an objection to its being read in evidence, on the ground that it is immaterial, incompetent and irrelevant.

"Mr. DAVENPORT: This is a copy of The Cleveland Citizen, of Cleveland, Ohio, of date Saturday, January 18, 1908, issued every Saturday by the United Trades & Labor Council, through its Board of Control, entered at Cleveland, Ohio, and — it occurred the following article:

"TREND OF EVENTS.

'The American Federation of Labor's Unfair List.

'Due notice is given that the District Court of — Columbia has Decreed That it is Unlawful to Boycott Buck's Stoves and Ranges, which are Manufactured at St. Louis, Mo.

'Owing to the wide advertising received by the American Federation of Labor's 'We Don't Patronize List,' as a result of the injunction proceedings in the Equity Court of the District of Columbia, brought by the Buck's Stove & Range Co., of St. Louis, against the A. F. of L. officials, many friends and sympathizers have expressed a desire that the whole unfair list be published in order that they may take cognizance of those concerns that have been fighting organized labor. We herewith print the list and suggest that it be cut out and posted conspicuously in the homes, meeting halls and other public places, so that fair-minded people may safeguard their patronage and know the concerns that hate the unions because they revolt against the low wage, long hours and sweating systems that the following firms seek to impose:

906 " (I will ask that this list of the American Federation of Labor be copied in full.)

'Food and Kindred Products.

Bread.—McKinley Bread Co., St. Louis, Mo.

Cigars.—Carl Upman, New York City; Kerbs, Wertheim & Schiffer, New York city, manufacturers of the Henry George and Tom Moore cigars; Rosenthall Co., New York City, manufacturers of the Bill Dugan, King Alfred, Peiper Heidsick, Joe Wolcott, Big Bear, Diamond D, El Tiladdo, Jack Dare, Little Alfred, Club House, Our Bob, 1405 Royal Arcanum cigars.

Flour.—Washburn-Crosby Milling Co., Minneapolis, Minn., Valley City Milling Co., Grand Rapids, Mich.

Groceries.—James Butler, New York City.

Meat.—Jones-Lamb Co., Baltimore, Md.

Tobacco.—American and Continental Tobacco companies.

Whiskey.—Pinch Distilling Co., Pittsburg, Pa.

Clothing.

Clothing.—N. Schellenberg & Co., Philadelphia, Pa.; Clothiers' Exchange, Rochester, N. Y.; B. Kuppenheimer & Co., Chicago, Ill.; Saks & Co., Washington, D. C., New York city and Indianapolis, Ind.

Corsets.—Chicago Corset Co., manufacturers Kabo and La Marguerite corsets.

Gloves.—J. H. Cownie Glove Co., Des Moines, Ia.; California Glove Co., Napa, Cal.

Hats.—J. B. Stetson Co., Philadelphia, Pa.; E. M. Knox Co., Brooklyn, N. Y.; Henry E. Roelof & Co., Philadelphia, Pa.
907

Shirts and Collars.—United States Shirt & Collar Co., Troy, N. Y.; Van Zandt, Jacobs & Co., Troy, N. Y.; Cluet, Peabody & Co., Troy, N. Y.; James R. Kaiser, New York city.

Printing and Publications.

Bookbinders.—Boorum & Pease Co., Brooklyn, N. Y.

Printing.—Hudson, Kimberly & Co., printers, Kansas City, Mo.; W. B. Conkey & Co., publishers, Hammond, Ind.; Times, Los Angeles, Cal.; Philadelphia Inquirer, Philadelphia Bulletin.

Pottery, Glass, Stone, and Cement.

Pottery and Brick.—Northwestern Terra Cotta Co., Chicago, Ill.; Corning Brick, Tile and Terra Cotta Co., Corning, N. Y.

Cement.—Portland Peninsular Cement Co., Jackson, Mich.; Utica Hydraulic Cement Mfg. Co., Utica, Ill.

Machinery and Building.

General Hardware.—Landers, Frary & Clark, Aetna Co., New Britain, Conn.; Brown & Sharpe Tool Company, Providence, R. I.; John Russell Cutlery Co., Turner's Falls, Mass.; Henry Disston & Co., Philadelphia, Pa.; New York Knife Co., Waldron, N. Y.

Iron and Steel.—Illinois Iron & Bolt Co., Carpentersville, Ill.; Casey & Hodges, Chattanooga, Tenn.; Lincoln Iron Works (F. R.

Patch Mfg. Co.), Rutland, Vt.; Erie City Iron Works, Erie, Pa.;
 908 Singer Sewing Machine Co., Elizabeth, N. J.; Pittsburg Ex-
 panded Metal Co., Pittsburg, Pa.; American Hoise & Derrick
 Co., St. Paul, Minn.; Standard Sewing Machine Co., Cleve-
 land, O.; Manitowoc Dry Dock Co., Manitowoc, Wis.

Stoves.—Wrought Iron Range Co., St. Louis, Mo.; United States
 Heater Co., Detroit, Mich.; Gurney Foundry Co., Toronto, Ont.;
 Home Stove works, Indianapolis, Ind.

Please remember that it is unlawful for the American Federation
 of Labor to

BOYCOTT BUCK'S STOVES AND RANGES.

Justice Gould, in the Equity Court of the District of Columbia, on
 Dec. 17, handed down a decision granting the company a temporary
 injunction preventing the Federation from publishing this firm as

UNFAIR TO ORGANIZED LABOR.

(This is not in conflict with the injunction, but a statement of
 fact.)

Wood and Furniture.

Bags.—Gulf Bag Co., New Orleans, La., branch Bemis Bros., St.
 Louis, Mo.

Brooms and Dusters.—The Lee Broom & Duster Co., Davenport,
 Ia.; M. Goeller's Sons, Circleville, O.; Merkle-Wiley Broom Co.,
 Paris, Ill.

Fiber Ware.—Indurated Fiber Ware Co., Lockport, N. Y.

Furniture.—American Billiard Table Co., Cincinnati, I.; Wisner
 Piano Co., Brooklyn, N. Y.; Krell Piano Co., Cincinnati, O.; Werby
 Desk Co., Boston, Mass.

Gold Beaters.—Hastings & Co., Philadelphia, Pa.; J. J. Keeley,
 New York city; F. W. Rauskolb, Boston, Mass.

909 Lumber.—Reinle Bros. & Solomon, Baltimore, Md., St.
 Paul & Tacoma Lumber Co., Tacoma, Wash.; Grays Harbor.

Telegraphy.—Western Union Telegraph Co. and its messenger
 service.

D. M. Parry, Indianapolis, Ind.

Thomas Taylor & Son, Hudson, Mass.

C. W. Post, manufacturer of Grape Nuts and Postum Cereal, Bat-
 tle Creek, Mich.

Leather.—Lereh Bros., Baltimore, Md.

Rubber.—Lambertville Rubber Co., Lambertville, N. J.

Wall Paper.—William Bailey & Sons, Cleveland, O.

Wagons.—The Hickman-Ebbert Co., Owensboro, Ky., Owensboro
 Wagon Company, Owensboro, Ky.; F. A. Ames Co., Owensboro, Ky.

Watches.—Keystone Watch Case Co., Philadelphia, Pa.; Jos.
 Fahy, Brooklyn Watch Co., Sag Harbor; T. Zurbrugg Watch Case
 Co., Riverside, N. J.

Wire Cloth.—Thos. E. Gleason, East Newark, N. J.; Lindsay Wire
 Weaving Co., Collingwood, O.

Miscellaneous.

Bill Posters.—Bryan & Co., Cleveland, O.; A. Van Buren Co. and New York Bill Posting Co., New York city.

Hotels.—Reddington Hotel, Wilkesbarre, Pa.

Railways.—Atchison, Topeka & Santa Fe railroad; Missouri, Kansas & Texas Railway company.'

"Mr. DAVENPORT: I offer in evidence this copy of the Cleveland Citizen, dated January 18, 1908.

910 "Mr. PARKER: I object to the introduction of this paper in evidence, on the ground that it is incompetent, immaterial and irrelevant.

"Said paper is filed herewith and marked Exhibit Gompers Cross Ex. No. 1."

I call particular attention to that which appears under the head of "Stoves." I will now read further from the record. (Reading:)

"By Mr. DAVENPORT:

"Q. I would call your attention to this portion of it (reading):

'Stoves.—Wrought Iron Range Co., St. Louis, Mo.; United States Heater Co., Detroit, Mich.; Gurney Foundry Co., Toronto, Ont.; Home Stove works, Indianapolis, Ind.

'Please remember that it is unlawful for the American Federation of Labor to

'BOYCOTT BUCK'S STOVE AND RANGES.

'Justice Gould, in the Equity Court of the District of Columbia, on Dec. 17, handed down a decision granting the company a temporary injunction preventing the Federation from publishing this firm as

'UNFAIR TO ORGANIZED LABOR.

'(This is not in conflict with the injunction, but a statement of fact.)'

"And I would call your attention to the fact that the words 'Boycott Buck's Stove and Ranges' and the words 'Unfair to
911 Organized Labor' are in heavy type—very heavy face type. A. Bold-face type.

"Q. And the body of the statement is in very fine type. Do you generally receive the labor press? A. Yes sir; that is, it is received at our office, I very seldom receive it."

I then call attention to pages 828 to 837 inclusive of the original record in this case, the same being pages 459 and 464, inclusive, of the transcript of record in the Court of Appeals. (Reading:)

"By Mr. PARKER:

"Q. That is, you very seldom read it? A. I very seldom read it. I have not the time.

"By Mr. DAVENPORT:

"Q. Do you see The Toledo Union Leader, the official organ of the Central Labor Union of Toledo, Ohio, and vicinity? A. Some-

times. I have not seen it in quite a time. For your information, I may say that very often a central body may give its endorsement of paper as an official publication, and it yet be the private property of individuals.

"Q. Will you recognize that as a copy of that paper (handing witness paper)? A. Yes sir.

"Mr. PARKER: Before you proceed with the reading of that article, I want to enter an objection to its being read in evidence, on 912 the ground that it is immaterial, incompetent and irrelevant.

"Mr. DAVENPORT: This is a copy of The Toledo Union Leader, of date Friday, January 10, 1908. I quote the following extract:

"AGAINST BUCK'S STOVES.

'Committee of Central Labor Union Asks Merchants to Shun This Product.

'Under orders of the Central Labor Union, and at the request of the A. F. of L., a committee consisting of Thos. Rumsey, Sam Smith and J. P. Egan are circularizing the Toledo stove dealers asking them to not contract for Buck's stoves the coming season.

'The circular declares that Organized Labor will resist in all manner possible the injunction debarring all reference to this stove in Labor papers, and a merry time is hinted at.'

"Mr. DAVENPORT: I offer in evidence this copy of The Toledo Union Leader, dated January 10, 1908, and ask that it may be filed as an exhibit hereto.

"Mr. PARKER: I object to the introduction of this paper in evidence, on the ground that it is incompetent, immaterial and irrelevant.

"Said paper is filed herewith and marked 'Exhibit Gompers' Cross Ex. No. 2.'

"By Mr. DAVENPORT:

"Q. Do you recognize the paper which is called the St. Louis Labor? A. Yes, sir; it is published by a political party.

913 "Q. Is it not a part of the reform press? A. I do not know that I should particularly characterize it as that.

"Q. Would it come under the head of the friends of organized labor? A. I cannot say that it would do that, either; but I would call your attention to the fact that many daily papers have published that circular, and they are not, necessarily, friends of organized labor.

"Mr. DAVENPORT: I will read an extract from the paper called St. Louis Labor, under date of January 11th, 1908, as follows:

'BUCK'S STOVE RESOLUTION.

'Unanimously Adopted by the St. Louis Central Trades and Labor Union, December 22, at Aschenbroedel Club Hall.

'At its last regular meeting, held Sunday, Dec. 22, at Aschenbroedel Hall, the St. Louis Central Trades & Labor Union, on motion of Vice President George Bechtold, adopted the following resolution by unanimous vote:

Resolution.

'Whereas, It has come to our knowledge that J. W. Van Cleave, president of the Buck Stove & Range Co., of this city, has secured a temporary restraining order prohibiting the officers of the American Federation of Labor from publishing the name of the Buck Stove & Range Co., in the 'We Don't Patronize' list, and

'Whereas, The National Manufacturers' Association of which the said J. W. Van Cleave is president, has undertaken to raise a
914 fund of \$500,000 per year for the alleged purpose of educating the working people, but which at the present time is being used under the direction of said J. W. Van Cleave in an attempt to disrupt the labor organizations of the country and in particular the foundry employes, metal polishers, stove mounters and steel range workers, therefore be it

'Resolved, That the Central Trades & Labor Union of St. Louis and Vicinity is hereby requested to appoint a committee who shall conduct and manage a 'Campaign of Education' among the membership affiliated with the Central Trades & Labor Union as well as dealers in stoves and ranges in their locality, and thoroughly inform them as to the attitude of J. W. Van Cleave and the Manufacturers' Association towards Organized Labor, and be it further

'Resolved, That the delegates in the meeting assembled hereby reinforce the boycott on the Buck Stove & Range Co., and use every lawful means at their command to bring about an adjustment of the existing controversy.'

"Mr. DAVENPORT: I offer in evidence this copy of the St. Louis Labor, dated January 11, 1908.

"Mr. PARKER: I object to the introduction of this paper in evidence, on the ground that it is incompetent, immaterial and irrelevant.

"Said paper is filed herewith and marked Exhibit Gompers Cross Ex. No. 3.

"By Mr. DAVENPORT:

"Q. Is it of that body—The Central Trades & Labor Union,
915 that Mr. David Kreyling is secretary? A. I think so.

Q. Referred to in your testimony heretofore? A. Yes sir.

"Q. Are you familiar with the Springfield Tradesman, published at Springfield, Missouri? A. Yes sir; I sometimes see it. I have not seen that nor any of the other papers, in months.

"Q. This is a copy of it, (handing witness a paper)? A. Yes sir.

"Mr. PARKER: Before you proceed with the reading of that article, I want to enter an objection to its being read in evidence, on the ground that it is immaterial, incompetent and irrelevant.

"Mr. DAVENPORT: This is a copy of the Springfield Tradesman, published at Springfield, Missouri, January 18, 1908, containing an article as follows:

'Announcement.

'It is unlawful for the American Federation of Labor and Its members and sympathizers to

BOYCOTT THE BUCK'S STOVE & RANGE CO.

Justice Gould in the Equity Court, of the District of Columbia, on December 17th, handed down a decision granting the company a temporary injunction preventing the Federation from publishing the fact that the

BUCK'S STOVE & RANGE CO.

is on the

UNFAIR LIST OF ORGANIZED LABOR.'

916 "Mr. DAVENPORT: We offer this paper in evidence and ask that it be filed in connection with this testimony.

"Mr. PARKER: I object to the introduction of this paper in evidence, on the ground that it is incompetent, immaterial and irrelevant.

"Said paper is filed herewith and marked Exhibit Gompers Cross Ex. No. 4.

"By Mr. DAVENPORT:

"Q. I call your attention to The Labor Journal, published at Rochester, N. Y., the official Journal of the Central Trades and Labor Council. Do you recognize that as a copy of that paper (handing witness paper)? A. That is a private publication.

"Q. It is the official journal, is it not? A. It is given endorsement as the official journal. That is, I assume it is, but I do not know.

"Q. It is one of the papers of the labor press that you referred to? A. Yes sir.

"I would read the following article, on the second page:

"Mr. PARKER: Before you proceed with the reading of that article, I want to enter an objection to its being read in evidence, on the ground that it is immaterial, incompetent and irrelevant.

"Mr. DAVENPORT: I read from The Labor Journal, the official journal of New York Allied Printing Trades Council and Official Journal of the Central Trades and Labor Council, published at Rochester, New York, Friday, January 10, 1908, the following:

917 'ONE WAY OF DOING IT!'

'Here is one way of announcing a recent court decision, taken from the Galesburg 'Labor News.'

'It is unlawful for the American Federation of Labor to

BOYCOTT BUCK STOVE AND RANGES.

Justice Gould in the Equity Court of the District of Columbia, on December 17th, handed down a decision granting the Company

a temporary injunction preventing the Federation from publishing this firm as

UNFAIR TO ORGANIZED LABOR.

'The above could hardly be construed to conflict with the law, since it is a statement of facts.'

"Mr. DAVENPORT: I offer in evidence this copy of The Labor Journal, dated January 10, 1908.

"Mr. PARKER: I object to the introduction of this paper in evidence, on the ground that it is incompetent, immaterial and irrelevant; and on the further ground that it is good as matter of law.

"Said paper is filed herewith and marked Exhibit Gompers Cross Ex No. 5.

"By Mr. DAVENPORT:

"Q. (Handing witness paper.) Will you look at that, and see whether you recognize that as a copy of the paper, 'St. Louis Labor?'

A. It is; published by the Socialist political party of St. Louis.

"Q. A friend of the laborer? A. That is a matter of opinion.

"Q. They have been very assiduous in sinking whatever personal objections they may have to you on account of your disagreement with them on the question of socialism in promoting this subject?

A. That is because of the attack upon the characters of the men which Mr. Van Cleave and his associates led against my colleagues and myself.

"Mr. DAVENPORT: I read from the St. Louis Labor, published at St. Louis, Missouri, Saturday, January 18, 1908.

"Mr. PARKER: Before you proceed with the reading of that article, I want to enter an objection to its being read in evidence, on the ground that it is immaterial, incompetent and irrelevant.

"Mr. DAVENPORT: On the first page, the following article is found:

'Announcement.

'It is unlawful for the American Federation of Labor and Its members and sympathizers to

BOYCOTT THE BUCK'S STOVE & RANGE CO.

'Justice Gould in the Equity Court, of the District of Columbia, on December 17th, handed down a decision granting the company a temporary injunction preventing the Federation from publishing the fact that the

919

BUCK'S STOVE & RANGE CO.

is on the

UNFAIR LIST OF ORGANIZED LABOR.'

"Mr. DAVENPORT: I offer this paper in evidence, and ask that it be filed.

"Mr. PARKER: I object to the introduction of this paper in evidence, on the ground that it is incompetent, immaterial and irrelevant.

"Said paper is filed herewith and marked Exhibit Gompers Cross Exhibit No. 6.

"Mr. DAVENPORT: I have another copy of the same paper, the St. Louis Labor, dated January 25, 1908; and under the heading, 'The World of Labor,' in the first column of page 5, the following:

"Mr. PARKER: Before you proceed with the reading of that article, I want to enter an objection to its being read in evidence, on the ground that it is immaterial, incompetent and irrelevant.

"Mr. DAVENPORT (reading):

'WISCONSIN FEDERATION OF LABOR ON BUCK'S STOVE BOYCOTT.

"In its semi-annual meeting the executive board of the Wisconsin Federation of Labor took up the Buck's Stove Injunction case. The official proceedings contain the following information: The lawsuit of the Van Cleave Buck — and Range concern of St. Louis against the A. — discussed. Moved and carried that Organized Labor sympathizers are requested to consider the above concern still unfair.'

"Mr. DAVENPORT: I offer in evidence this copy of St. Louis Labor, dated January 25, 1908.

"Mr. PARKER: I object to the introduction of this paper in evidence, on the ground that it is incompetent, immaterial and irrelevant.

"Said paper is filed herewith and marked Exhibit Gompers Cross Exhibit No. 7."

I suppose you would call that testimony if it is substantially correct, as stated therein? A. Yes sir.

Q. Now Mr. Gompers, in your testimony the other day, you stated that Mr. S. L. Landers, one of the special committee appointed by you on the suit of the Buck's Stove and Range Co., at the Norfolk Convention, in November, 1907, was a delegate from the United Garment Workers of America, and the editor of the official journal of that organization, I believe? Is that correct? A. Yes sir.

Q. I call your attention to this issue of the Weekly Bulletin, the official organ of the United Garment Workers of America, dated November 1st, 1907, and ask you if you identify it? A. After examination I do, sir.

Mr. DAVENPORT: I offer this in evidence.

The paper referred to was marked Exhibit A. II. No. 17.

By Mr. DAVENPORT:

Q. I direct your attention to the fourth page and the third column thereof, about the middle of the column, in which occurs the following:

"WHERE TO TAKE INJUNCTIONS.

"The National Manufacturers' Association, through its president, J. W. Van Cleave, who is the Buck Stove and Range Company of St. Louis, Mo., has made application for an injunction restraining Samuel Gompers, as president of the A. F. of L. and his associates from publishing the name of the Buck Stove and Range Company of St. Louis in the 'unfair list' of the American Federationist.

"In the current issue of the Federationist President Gompers editorially says:

"So labor must not use its patronage as it will—that is, if Van Cleave of Buck's Stove and Range Company fame has his way. But what vested right has that company in the patronage of labor or of labor's friends? It is their own to hold or with-old or bestow as their interest or fancy may direct.

"They have a lawful right to do as they wish, all the Van Cleave, all the injunctions, all the fool or vicious opponents to the contrary notwithstanding.

"Wonder whether Van Cleave will try for an injunction compelling union men and their friends to buy the Buck's Stove and Range Company's unfair product?

"Until a law is passed making it compulsory upon labor men to buy Van Cleave's stoves we need not buy them, we won't buy them, and we will persuade other fair-minded, sympathetic friends to co-operate with us and leave the blamed things alone.

922 "Go to — with your injunctions."

The WITNESS: Is not that already in evidence?

Mr. DAVENPORT: The original, but the fact that it was copied into this journal is not.

The WITNESS: Well, supposing I admit that it has been copied into five hundred different journals, would that be sufficient?

By Mr. DAVENPORT:

Q. Do you wish to admit it? A. I am perfectly satisfied that it has been published in many, many journals, labor journals and otherwise, if that will expedite matters.

Q. All right. I call your attention—— A. If it does not expedite matters, it does not seem necessary to make any admission.

Q. You must be your own judge about that. A. I would say that I am willing to admit that, to save time.

Q. Well, do you admit that it was? A. If it will save time, I shall admit it.

Q. Let me call your attention to a copy of the trade paper, the Weekly Bulletin of the Clothing Trades, published every Friday by the General Executive Board of the United Garment Workers of America, dated December 13, 1907. Will you recognize that, (handing witness another paper)? A. Do I recognize the paper?

Q. Yes. A. Yes sir.

923 Mr. DAVENPORT: I ask that this be marked as an exhibit.

The paper referred to was accordingly marked exhibit A. II. No. 18.

By Mr. DAVENPORT:

Q. I direct your attention to the fourth column of the first page of that paper, near the bottom thereof, under the heading, "Convention Proceedings."

"Editor Weekly Bulletin:

"The proceedings of the twenty-seventh annual convention of the American Federation of Labor, held at Norfolk, Va., will be ready for distribution in a few days, at 25 cents a copy, \$20 a hundred.

"Please bring this before your organization and endeavor to secure an order. The book contains the report of the president, secretary, treasurer, executive council, all committees and matters of an important nature. It should be read by the members of your union. Send in your orders early before the edition is exhausted, and accompany orders with payment for same.

Faternally yours,

FRANK MORRISON,

"Sec'y American Federation of Labor.

"Washington, D. C., Nov. 30, 1907."

The WITNESS: That is a copy of a circular that has been regularly sent to affiliated unions and the labor press for more than twenty years. It has been the regular practice——

Q. This was done in this case, was it? A. Yes sir.

Q. Do you know how extensively? A. No, only that it
924 was generally done, to reach the——

Q. Sent out by Mr. Morrison as secretary? A. Yes sir, and usually with my name accompanying it. If my name did not accompany this it was probably an oversight and I am willing to assume equal responsibility.

Q. I show you another copy of the same paper, under date of December 20, 1907, and ask you if you recognize that, (handing witness paper). A. (After examination:) Yes sir.

Mr. DAVENPORT: I ask that this be marked as an exhibit.

The paper referred to was accordingly marked "Exhibit A. II. No. 19.

By Mr. DAVENPORT:

Q. I direct your attention to the fourth page, first column, under the heading, "Minor Editorials." (reading as follows:)

"Garment workers cannot by injunction be compelled to spend their earnings on stoves manufactured at St. Louis by the Buck's Stove & Range Company, nor yet for Grape-Nuts or Postum Cereal, manufactured at Battle Creek, Mich., by C. W. Post. Both of these firms are diametrically opposed to the interest of the U. G. W. of A., and as a consequence it is detrimental to its interest that its members spend any of their earnings with such firms."

I call your attention to the date of that, December 20, 1907. A. With the sentiments expressed there, I am in entire accord.

925 Q. At present? A. Yes sir.

Q. And have been throughout? A. Have been all the time and will continue to be—

Q. Before and since the institution of the suit and the injunction? A. Yes sir.

Q. I show you a copy of the same paper, dated January 24, 1908, and ask you if you recognize it (handing witness paper). A. (After examination:) I do; except you seem to have torn off a portion of these papers, or at least a portion of them has been torn off.

Q. I show you this dated January 24, 1908, and would ask if you recognize it? A. Yes sir.

Mr. DAVENPORT: I ask that this be marked as an exhibit.

The paper referred to was accordingly marked "Exhibit A. H. No. 20."

By Mr. DAVENPORT:

Q. I call your attention to page three, column 3, under the heading of, "Nothing New." I will read you this article. (Reading:)

"NOTHING NEW.

"Judge Gould of the United States Circuit Court has deduced that the 'unfair list' is conspiracy and that you must not say to one another or print the fact that Van Cleave's Buck Stove Com-
926 pany is unfair, does not pay fair wages, nor have fair conditions under which labor is performed, and if you ask a brother unionist not to buy a Buck stove you are a conspirator.

"That is nothing new. It is possible that while Judge Gould was a child that it was 'conspiracy' to help a colored bondsman escape from his master. Also, it was conspiracy for two or more men to meet on the street corners. 'Conspiracy' is the gum elastic term to cover any or all things needed to subjugate liberty or stifle aspirations for freedom. But people will be told and shown that the Buck stove is unfair, Judge Gould to the contrary notwithstanding.—United Mine Workers' Journal."

I also call your attention to the second column on the fourth page of that issue, about the middle, under the heading, "The Van Cleave Injunction," reading as follows:

"THE VAN CLEAVE INJUNCTION.

"The Van Cleave injunction against the A. F. of L. to restrain it from publishing that the Buck Stove and Range Company, of St. Louis, was unfair to organized labor, and the decision of Judge Gould has done more to bring the circumstances and conditions which involved the Buck people and trade unions into this fight before the wage earners and householders of this country than did all the previous advertising of a whole year. Van Cleave is now getting out a little booklet entitled 'Buck's Shot.' Some say he is half shot, while others say he is really intoxicated with joy, at Justice Gould's

rendition—but wait until he sobers up, a half dozen more injunctions won't fix as an antidote. They cannot compel us to buy the product of the Buck's Stove and Range Company, of St. Louis—See!”

I show you this paper also, and ask you if you recognize it. This is dated January 31, 1907.

A. (After examination:) Yes sir.

Mr. DAVENPORT: I ask that this be marked as an exhibit. The paper was accordingly marked “Exhibit A. II. No. 21.”

By Mr. DAVENPORT:

Q. I call your attention to the first page, fourth column thereof, near the bottom, under the heading “Gompers to resist an Injunction,” which reads as follows:

“GOMPERS TO RESIST AN INJUNCTION.

“Says Court's Order against Boycott is a Menace to Personal Liberty.

“A special to the New York World from Washington says President Samuel Gompers of the American Federation of Labor does not intend to comply with all the terms of an injunction recently issued by Justice Gould against putting the Buck Stove and Range Company on the ‘We Don't Patronize’ list.

“In an editorial published in the Federationist Mr. Gompers says: ‘It is an invasion of the liberty of the press and the right of free speech. We would be recreant to our duty did we not do all in our power to point out to the people the serious invasion of their liberties which has taken place. That this has been done by judge-made injunction and not by statute law makes the menace all the greater.’

“The matter of attempting to suppress the boycott of the Buck Stove and Range Company by injunction, while important, yet pales into insignificance before this invasion and denial of constitutional rights.

“We discuss this injunction and feel obliged as a matter of conscience and principle to protest its issuance and its enforcement, yet we desire it to be clearly understood that the editor of the American Federationist does not consider himself thereby violating any law of either state or nation, nor does he intend or advise any disrespect toward the courts of our country. And yet inherent, natural and constitutional rights and guarantees must be defended and maintained.”

“Mr. Gompers states that the services of some of the foremost lawyers have been obtained, and that the case will be carried to the United States Supreme Court.”

A. That despatch was sent out by the Associated Press. I suppose Mr. Dawson must be haled to court for violating the terms of the injunction.

Q. Was it sent out by him, furnished by you? A. No sir; more than likely by you.

Q. Not at all, because at that time I was not in the secret purposes of the officials of this organization. A. Perhaps your detectives were.

Q. No; I have none; I am my own detective. I have gathered the light from a search—— A. Well, then, Mr. Van Cleave's detectives.

929 Q. Well, I guess that is—— A. True.

Q. Not so—— A. It is true.

Q. I would not say that. A. It is true.

Q. You may think it is true. A. No, it is true; I know it.

Q. But the information that you are speaking about was contained in a newspaper, must have been prior to the date of the issue of the paper, January 31, 1908, because it appears therein.

Now, I direct your attention to the first column on the fourth page under the heading, "Minor Editorials":

"All the Justice Gould's Buck Stove and Range Company injunctions and the United States Supreme Court judges, with their declaration of the Erdman law as unconstitutional, will some day be either in heaven or hell, and trade unionism will still flourish. So don't worry."

I show you an issue of the same paper, the Weekly Bulletin, official organ of the United Garment Workers of America, dated February 14, 1908. Do you recognize it? A. (After examination:) Yes sir, I do.

Mr. DAVENPORT: I ask that this be marked as an exhibit.

(The paper in question was accordingly marked Exhibit A. II. No. 22.)

By Mr. DAVENPORT:

930 Q. I direct your attention to the second page of that number of that paper, being Exhibit A. II. No. 22, and to the fourth column thereof, under the heading "American Federationist," and I ask the witness's particular attention to this:

"AMERICAN FEDERATIONIST.

"One of the Best Labor Magazines in the World.

"Edited by Samuel Gompers.

"To all organized labor, Greeting:

"The Norfolk convention of the American Federation of Labor directed that proper steps should be taken and continued throughout the year to increase the circulation of the American Federationist,"

Do you recall issuing that circular? A. I remember issuing a circular, in which I think this was included. I do not know whether it was a special circular, I cannot recall that just now.

Q. Do you know whether that was taken from that circular? A. No.

Q. You do not recall anything about it? A. I think that I have already said that I recall a circular being issued in which that was included.

Q. Well, I will read this to you. (Reading:)

"To all organized labor, Greeting:

"The Norfolk convention of the American Federation of Labor directed that proper steps should be taken and continued
331 throughout the year to increase the circulation of the American Federationist, the official monthly magazine of the American Federation of Labor.

"The subscription price is \$1 a year, and the magazine should most undoubtedly be in the hands of every member of organized labor throughout the country.

"The American Federationist gives accurate reports of the condition of the labor movement, not only throughout the entire continent, but of the civilized world, and is come to be regarded as the leading magazine of its kind in the United States.

"Existing conditions demand that every effort be put forth by our fellow unionists to more thoroughly organize the yet unorganized workers: that they may be benefited by the beneficent influence of associated effort. Now more than ever is it necessary for labor to be organized, united and federated so that the interests of all may be protected and promoted. Let it be clearly understood by all that the toilers are not responsible for the existing financial difficulties, and will not be made the victims of the attempt at industrial depression; that wage reductions will be resisted by every lawful means at our command, and that the reasonable demands which labor makes for Congressional and legislative relief for the redress of wrongs which are practised and to attain the rights to which they are entitled will go on uninterrupted, with greater persistency than ever before.

"Bear in mind that an injunction issued by a court in no way compels labor or labor's friends to buy the product of the Van Cleave Buck's Stove and Range Company, of St. Louis.

332 "Fellow workers, be true and helpful to yourselves and to each other. Remember that united effort in cause of right and justice must triumph.

"Thanking you in advance for your cordial and prompt co-operation for the common uplift of the toilers and of our people, and hoping for renewed energy and success for yourselves, I am, fraternally yours,

"SAMUEL GOMPERS,

"Pres't American Federation of Labor.

"Attest: FRANK MORRISON, *Secretary.*"

A. I remember writing and issuing that circular. The existing conditions of the two million unemployed workmen, the failure of Congress to pass legislation giving equal rights to the workers before the law, which equal rights are denied by court and injunction, were

the reasons for the issuance of the circular, and the call upon the workers to organize more thoroughly than ever before, and to increase the circulation of the American Federationist. In reference to the Buck's Stove and Range Company, the circular is a mere incident, and the right of free publication is involved, and in that, assert my right.

Q. Why did you insert in that circular these words:

"Bear in mind that an injunction issued by a court in no way compels labor or labor's friends to buy the product of the Van Cleve Buck's Stove and Range Company, of St. Louis?"

A. Simply the statement of a fact.

Q. Why did you state that fact in that connection? A. 933 seemed to me that the friends of labor should know that fact, and, possessing that knowledge, I communicated this to the public for their information.

Q. With the expectation that they would act upon it? A. No, except as they would have the information, and they could exercise their own judgment in any way they saw fit, within the law.

Q. And I direct your attention to the fourth page of the same issue, first column, under the heading, "Minor Editorials," to the following:

"Neither Van, nor his ally, Judge Gould,
And the combined forces of hell,
Can bridle free speech in this country,
And the same old story we'll tell.
'Boy Cott noch a mal.'"

Perhaps somebody here can translate that. A. It is bad German. I suppose it is intended to convey, "By Gott, noch a mal."

Q. What is the last part of it, what does that mean? A. Literal yet again, or once again.

Q. Then, I direct your attention to the eighth page in the first column, of the same issue, under the heading, "An Urgent Appeal for Financial Aid; to Defend the Fundamental Rights of Free Speech and a Free Press. To all organized labor, greeting." and then follows that circular—— A. Which I issued, for financial contributions.

Q. And other purposes? A. No, not for other purposes; for financial contributions, to retain counsel and bear the expense 934 the defendants, in this injunction.

Q. I think the circular and the accompanying editorials will sufficiently indicate what the editorial may be. A. The editor is privileged, and has nothing to do with the circular, and the circular makes a statement of fact involving the right of free speech and free press which cannot properly be considered by the court.

Q. I call your attention to the issue of that paper under the date of February 28th, and ask you if you recognize it. (handing witness paper). A. (After examination:) Yes, that is another copy of the same paper.

Q. The Weekly Bulletin, official organ of the United Garment

Workers of America, dated February 28, 1908. I ask that it be marked as an exhibit.

(The paper was accordingly marked "Ex. A. H. No. 23").

Q. (Continuing:) And I direct your attention to the third column, of the first page thereof, under the head, "Fights Anti-Boycott Decision." I will read it. (Reading:)

"FIGHTS ANTI-BOYCOTT DECISION.

"President Gompers Criticises the Supreme Court's Opinion.

"Over the signature of Samuel Gompers, an editorial in 'The American Federationist' for this month attacks the recent decision of the Supreme Court of the United States in the case of Loewe & Co., popularly known as the 'hat case,' which is declared to be 'the most drastic and far-reaching decision which it has ever
355 handed down,' and as affecting directly all labor, and hence the whole people. The editorial begins with the statement that 'labor organizations must not be outlawed,' and then proceeds at great length to review the court's decision point by point, with a view to showing that the court erred. It *is* denied that there was any restraint of trade on the part of the United Hatters, because their action in preventing the sale of Loewe hats 'did not result in fewer hats being purchased by the community.' Moreover, it is asserted positively that in one important point the court was in error, for the 'American Federation of Labor never indorsed or declared a boycott against the Loewe company,'

"Says Mr. Gompers:

"We trust it will not be considered leze majesty if we say that in our opinion the Supreme Court in this and other recent decisions affecting labor tends to revert to the mediæval procedure, rather than to make the application of legal principles to the present industrial situation. * * * The language of the hatters' decision makes it clear that the Supreme Court has not informed itself on modern economics. In its opinion the rights of hats seems to be greater than the rights of men. * * * In fact, this decision goes to an unheard of length in punishing workers for the exercise of their rights.'

"It is denied that a labor union is a trust, for 'There cannot be a trust in something which is not yet produced.' The editorial, continuing, declares that while the conscience of a large majority of employers will not permit them to take advantage of this
365 decision, 'there is always the selfish, avaricious, conscienceless type of employers' which might inflict great hardship under the protection of such a decree.

"The current issue of 'The Federationist' omits the usual 'we don't patronize list,' but, instead, a paragraph at the end of the editorial declares:

"It should be borne in mind that there is no law—aye, not even a court decision—compelling union men or their friends of labor to buy non-union products,' naming the particular articles which form the basis of the Supreme Court's decision."

A. That is an editorial mistake on the part of that paper, because it was not published instead of the "We Don't Patronize" list in the American Federationist. That part that you quoted as having been published in the American Federationist was the expression of an editorial opinion.

Q. What I want now is to direct your attention particularly to what appears in this paper and the construction which the publishers of this paper put upon that act. A. I am not responsible for the construction that the editor of another paper places upon any editorial of mine.

Q. Perhaps it may be the same construction that the court will put upon that—— A. Perhaps it may and perhaps it may not.

Q. I show you, Mr. Gompers, what purports to be volume 13, No. 2 of the Stove Mounters & Range Workers' Journal, dated, "For February, 1908," and I will ask you if you recognize that.

937 A. (After examination.) I do. I don't know when it was printed.

Mr. DAVENPORT: I ask that this be marked as an exhibit.

(The paper referred to was accordingly marked "Ex. A. II. No. 24.")

The WITNESS: It may have been printed long in advance of that month.

By Mr. DAVENPORT:

Q. I call your attention to what appears on page 36 of that number, which begins as follows: (Reading:)

"Southwestern District Conference Board, No. 8, of the S. M. & S. R. W. I. U.

"To all affiliated Locals, Greeting:

"We submit herewith the minutes of the regular meeting of the S. W. D. C. B. held at Belleville, Ill., Dec. 14 and 15, 1907."

I call your attention to the following:

"Afternoon Session.

"The meeting was called to order at 1:30 p. m.

"Roll call found all delegates present.

"The following resolution was presented by Local No. 34:

"Whereas, the Bucks Stove & Range Company of St. Louis, Missouri, whose president, Mr. J. W. Van Cleave, is also president of the Manufacturing Association, whose sole object in organization is to crush union labor, and whereas the name of Buck's Stove
938 & Range Co., of St. Louis, Mo., appears on the 'We Don't patronize list' of the Federationist, the official organ of the A. F. of L., placed there through the efforts of the Metal Polishers of St. Louis, Mo., and

"Whereas, this same J. W. Van Cleave has discharged some of our men, for the sole reason that they were members of our union, forcing them upon the streets, with the hardships of a cold, hard winter

fore them, and thereby depriving them of the chance to obtain the means to procure food and shelter for their wives and children,

"Whereas the Bucks Stove & Range Co. depends upon the stove dealers of the United States and Canada to sell their goods, we believe that if we can keep the said stove dealers from handling their products, they will be compelled to recognize our rights to organize, and deal with us in a fair and unprejudiced manner.

"Therefore be it resolved:

"That the S. W. D. C. B., comprising the various locals of the M. & S. R. W. I. U. of this district, request their members to call on all the dealers in their home cities, and use every legitimate means their power to have them cease handling the products of the Bucks Stove & Range Co., and should any dealer fail by moral persuasion to cease handling these goods, be it further

"Resolved that our members be requested to bring the name of said stove dealers before the Central Trades and Labor Assembly of its city, and ask for their assistance by declaring said stove dealers unfair to organized labor.

"Local secretaries are requested to forward named of such dealers declared unfair to the secretary of Local No. 34.

"Resolved, That the secretary of this Board be instructed to forward a copy of this resolution to the several district conference boards, and urge its adoption.

"Respectfully submitted,

WM. J. KIELY.

"The above resolution was adopted."

A. Of course, as to the authenticity of this, I cannot say. I want to call your attention to the fact that it purports to have been considered at a meeting of December 14, 1907, prior to the injunction being operative or even issued.

Q. But it appears in the February, 1908, number of the Stove Mounters' Journal. Now, was the Stove Mounters' International Union represented in the Norfolk convention by delegates? A. It was.

Q. Can you now recall by whom? (after a pause). I will give you the name. Published monthly by the Stove Mounters & Steel Range Workers of North America, Detroit, Mich. A. (After consulting report of proceedings of the Norfolk convention.) The name of that organization does not appear upon the list of organizations as having been represented by delegates at the Norfolk Convention.

Q. Is that one of the unions affiliated to the American Federation of Labor? A. It is.

Q. I direct your attention to pages 55 and 56 of that Journal, dated February, 1908, under the heading, 'We don't Patronize.' (Reading:)

"Union workingmen and working-women and sympathizers with labor have refused to purchase articles produced by the following firms:"

I ask that the whole of this list be inserted.
The rest of the Circular is as follows:

"Food and Kindred Products.

"Bread.—McKinney Bread Company, St. Louis, Mo.

"Cigars.—Carl Upman, of New York City; Kerbs, Wertheim & Schiffer, of New York City, manufacturers of the Henry George and Tom Moore cigars; Rosenthall Co., New York City, manufacturers of the Bill Dugan, King Alfred, Peiper Heidsiek, Joe Walcott, Big Bear, Diamond D, El Tiladdo, Jack Dare, Little Alfred, Club House, Our Bob, 1105 Royal Arcanum cigars.

"Flour.—Washburn, Crosby Milling Co., Minneapolis, Minn.; Valley Milling Co., Grand Rapids, Mich.

"Groceries.—James Butler, New York City.

"Meat.—Jones-Lamb Co., Baltimore, Md.

"Tobacco.—American and Continental Tobacco Companies.

Clothing.

"Clothing.—N. Snellenberg & Co., Philadelphia, Pa.;
941 Clothiers' Exchange, Rochester, N. Y.; B. Kuppenheimer & Co., Chicago, Ill.; Saks & Co., Washington, D. C., New York City, and Indianapolis, Ind.

Corsets.—Chicago Corset Co., Manufacturers Kabo and Marguerite Corsets.

Gloves.—J. W. Cowine Glove Co., Des Moines, Iowa; California Glove Co., Napa, Cal.

Hats.—J. B. Stetson Company, Philadelphia, Pa.; W. M. Knox Company, Brooklyn, N. Y.; Henry H. Roelof & Co., Philadelphia, Pa.

Shirts and Collars.—United Shirt & Collar Company; Troy, N. Y.; Van Zandt, Jacobs & Co., Troy, N. Y.; Cluett, Peabody & Co., Troy, N. Y.; James R. Kaiser, New York City.

Printing and Publications.

Bookbinders.—Boorum & Pease Co., Brooklyn, N. Y.

Newspapers.—Hudson, Kimberly & Co., printers, of Kansas City, Mo.; W. B. Conkey Co., publishers, Hammond, Ind.; Times, Los Angeles; Philadelphia Inquirer, Philadelphia Bulletin.

Pottery, Glass, Stone and Cement.

Pottery and Brick.—Northwestern Terra Cotta Co., of Chicago Ill.; Corning Brick, Tile and Terra Cotta Co., Corning, N. Y.

Cement.—Portland Peninsular Cement Company, Jackson, Mich. Utica Hydraulic Cement and Utica Cement Mfg. Co., Utica, Ill.

942

Machinery and Building.

General Hardware.—Landers, Frary & Clark; Aetna Company New Britain, Conn.; Brown & Sharpe Tool Company, Providence

R. I.; John Russel Cutlery Co., Turner's Falls, Mass.; Henry Disston & Co., Philadelphia, Pa.; New York Knife Co., Walden, N. Y.

Iron and Steel.—Illinois Iron & Bolt Company, of Carpentersville, Ill.; Casey & Hedges, Chattanooga, Tenn.; Lincoln Iron Works (F. R. Patch Mfg. Co.), Rutland, Vt.; Erie City Iron Works, Erie, Pa.; Singer Sewing Machine Co., Elizabeth, N. J.; Pittsburg Expanded Metal Co., Pittsburg, Pa.; American Hoist and Derrick Co., St. Paul, Minn.; Standard Sewing Machine Co., Cleveland, Ohio; Manitowoc Dry Dock Co., Manitowoc, Wis.

Stoves and Furnaces.—Wrought Iron Range Co., St. Louis, Mo.; Home Stove Works, Indianapolis, Ind.; Buck's Stove & Range Co., St. Louis, Mo.

Wood and Furniture.

Bags.—Gulf Bag Co., New Orleans, La., branch Bemis Bros., St. Louis, Mo.

Brooms and Dusters.—The Lee Broom and Duster Co., of Davenport, Ia.; M. Goeller's Sons, Circleville, Ohio; Merkle-Wiley Broom Co., Paris, Ill.

"Fibre Ware.—Indurated Fibre Ware Co., Lockport, N. Y.

"Furniture.—American Billiard Table Company, Cincinnati, Ohio; O. Wisner Piano Company, Brooklyn, N. Y.; Krell Piano Company, Cincinnati, Ohio; Derby Desk Company, Boston, 943 Mass.

Gold Beaters.—Hastings & Co., Philadelphia, Pa.; J. J. Keeley, New York City; R. W. Rausskolb, Boston, Mass.

Lumber.—Reinle Bros. & Solomon, Baltimore, Md.; St. Paul and Tacoma Lumber Co., Tacoma, Wash.; Grays Harbor Commercial Co., Cosmopolis, Wash.

Leather.—Lerch Bros., Baltimore, Md.

Pianos.—Kimball Piano Co., Chicago, Ill.

Rubber.—Lambertville Rubber Company, Lambertville, N. J.

Wall Paper.—William Bailey & Sons, Cleveland, O.

Watches.—Keystone Watch Case Company, of Philadelphia, Pa.; Jos. Fahy, Brooklyn Watch Case Co., Sag Harbor; T. Surbrugg Watch Case Company, Riverside, N. J.

Wagons.—The Hickman-Ebbert Co., Owensboro, Ky.; Owensboro Wagon Co., Owensboro, Ky.; F. A. Ames Co., Owensboro, Ky.

Wire Cloth.—Thos. E. Gleeson, East Newark, N. J.; Lindsay Wire Weaving Co., Collingwood, Ohio.

Miscellaneous.

Bill Posters.—Bryan & Co., Cleveland, Ohio; A. Van Buren Co. and New York Bill Posting Co., New York City.

Hotels.—Reddington Hotel, Wilkesbarre, Pa.

Railways.—Atchison, Topeka & Santa Fe Railroad; Missouri, Kansas & Texas Railway Company.

Telegraphy.—Western Union Telegraph Company and its Messenger Service.

944 "D. M. Parry, Indianapolis, Ind.

"Thomas Taylor & Son, Hudson, Mass.

"C. W. Post, manufacturer of grapenuts and postum cereal, Battle Creek, Mich."

I ask you whether that is not the 'We Don't Patronize' list of the American Federation of Labor as appearing in the Federationist?

A. As it did appear in the American Federationist, you mean?

Q. Yes. A. You said, "as appearing."

Q. As appearing in the American Federationist for the month of December, 1907, the January number, 1908. A. Without verifying it in detail, I should say that I think it is, and have no hesitancy in believing it to be.

Q. I call your attention to the inside page of the back cover of the same journal, to the following, being the page following page 64:

"To Organized Labor and Its Friends:

"The following Firms are Unfair to Organized Labor:

Home Stove Co., Indianapolis, Ind.

Excelsior Stove & Mfg. Co., Quincy, Ill.

King Bee Stove & Range Works, Sheffield, Ala.

Willare Range Co., O'Fallon, Ill., and St. Louis, Mo.

Thomas Roberts, Stevenson & Co., Philadelphia, Pa.

Buck Stove & Range Co., St. Louis, Mo.

Keeley Stove Co., Columbia, Pa.

945 "Reading Stove Works, Reading, Pa.

Prizer-Painter Stove Co., Reading, Pa.

March, Brownback & Co., Pottstown, Pa.

Buckwalter Stove Co., Royersford, Pa.

The Floyd-Wells Co., Royersford, Pa.

Grander Stove Co., Royersford, Pa.

Orbin Stove & Range Co., Belleville, Ill.

"These firms will not recognize the rights of organized labor, and we therefore earnestly request you and your friends not to buy their goods.

"STOVE MOUNTERS' AND STEEL RANGE
WORKERS' INTERNATIONAL UNION.

J. H. KAEFER, *Sec.-Treas.*

D. W. OTTINGER, *President.*"

I call your attention to another document here, which is entitled "The Union Label League Bulletin, for January, 1908, Vol. 2, No. 11, published monthly by the Union Label League No. 1 of Denver," and I ask you whether or not you recognize that as being what it purports to be. A. (After examination.) I cannot say. I have seen it, but I don't know.

Q. Well, have you any doubt about it? A. None at all.

Mr. DAVENPORT: I offer this as an exhibit.

(The pamphlet referred to was marked "Ex. A. H. No. 25.")

946 By Mr. DAVENPORT:

Q. I direct your attention to what is found on page 30 of that

number, under the heading, near the bottom of first column, "You Don't Have to buy them." (Reading:)

"It is presumed that since the American Furniture Co., has agreed to cease handling the Buck's Stoves and ranges that Mr. Van Cleave, the maker of that brand, will cast about for another dealer who will undertake to handle his product in this city. The attention of Denver business men is drawn to the fact that Van Cleave precipitated the trouble himself by taking away the nine-hour day from the metal polishers and mounters, and by denying to the range workers the right to organize. Hence his produce has been declared unfair. A recent A. F. of L. circular says:

'Van Cleave brought suit against the American Federation of Labor and has petitioned the court for an injunction to prohibit the American Federation of Labor from in any way advising organized labor and its friends of the fact that the Buck's Stove and Range Co., is unfair to its employes.

'The court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove and Range Co. upon the 'We Don't Patronize List.' Should we be enjoined by the court from doing so, the merits of the case will not be altered nor can any court decision take from any man the right to bestow his patronage where he pleases.

047 Mr. Van Cleave, president of the Buck's Stove and Range Co., also president of the National Association of Manufacturers, is raising a war fund of one million and a half dollars to crush organized labor. You already know the attempts that have been made with a part of that money to assassinate the characters of the active men in the labor movement to corrupt them and buy them over, much of which was exposed at the recent Norfolk convention of the American Federation of Labor and more of which will be published in a pamphlet about to be issued.

'Bear in mind that you have a right to decide how your money shall be expended.

'You may or may not buy the products of the Buck's Stove and Range Co.

'There is no law or edict of court that can compel you to buy a Buck's stove or range.

'You can not be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove and Range Co.'s products of its unfair attitude toward its employes and ask them to give their sympathy and aid in influencing the Buck's Stove and Range Co., to deal fairly with its employes and come to an honorable agreement with the union primarily at interest.'"

Now, Mr. Gompers, observing somewhat the sequence of events in relation to this matter, did not the United States Supreme Court on the 3rd of February, 1908, render a decision in the case of 048 Loewe and Lawler, which is commonly known as the hatters case? A. I don't remember the date, but the Supreme Court rendered a decision in that case about that time.

Q. And in the ensuing issue of the American Federationist, for March, 1908, of which I show you a copy and ask that it be marked as an exhibit in this case——

(The paper referred to was accordingly marked "Ex A. H. No. 26.")

The WITNESS: This is a copy of the March issue, 1908, of the American Federationist.

Q. (Continuing:) On page 192 thereof, did you write and insert the following:

"It should be borne in mind that there is no law, aye, not even a court decision, compelling union men or their friends of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat."

Then there is a dash, and "To Organized Labor and Friends." A. That is not a dash, it is a space bar to distinguish it from anything that preceded it or succeeded it.

Q. The Exhibit is on file—— A. But it is not a dash, it is a rule, distinguishing it and separating it from any matter which preceded it or succeeded it.

Q. Well, a space mark, then, followed by "To Organized Labor and Friends." A. It is not a space mark.

949 Q. What is it? A. It is a rule to separate it from anything which follows it and wholly independent from what follows it.

Q. The juxtaposition of this matter to what precedes and what follows it will appear from an inspection of the exhibit itself, and I direct the attention of the court to that juxtaposition. A. There is no such thing as a juxtaposition in it, either: it follows it, by a space mark, and is entirely independent of it.

Mr. RALSTON: It is an independent editorial.

The WITNESS: Yes sir.

Mr. DAVENPORT: That is the testimony of Mr. Ralston, to which I respectfully object.

The WITNESS: I use that language as my own, and I tried to indicate the same thing as best I could.

By Mr. DAVENPORT:

Q. A short time since, you saw in one of the exhibits introduced here, one of the papers of the United Garment Workers Association, that the publishers of that paper directed attention to the juxtaposition, did you not? A. No.

Q. And did you not say that that was a mistake, a mistaken construction by the editor of that number of the Bulletin? A. It was a mistaken construction when he said in his editorial——

950 Q. It was not an editorial. A. It was an editorial, in his paper. When he said that what he quoted is a substitute or something, instead of the "We Don't Patronize List," it was not in juxtaposition, either.

Q. What was your object, Mr. Gompers, in inserting on that page, in that place, these words:

"It should be borne in mind that there is no law, aye, not even a court decision, compelling union men or their friends of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat?"

A. To convey that general information, of an absolute fact, the expression of my editorial opinion.

Q. Had you not in that issue ceased the publication of the "We Don't Patronize List"? A. It did not appear in that issue nor subsequent issues.

Q. Well, in that issue? A. In that issue, yes sir.

Q. (Continuing:) The list which had previously, for some months, contained the name of the Buck's Stove and Range Company? A. It did not appear on that list in that issue.

Q. The question is whether you had discontinued it in that particular issue? A. Yes sir, and subsequently, too.

Q. Why, then, did you call attention to the fact that there was no law or even a court's decision compelling union men or their friends of labor to buy a Buck's stove or range? A. Simply for the information it contained, and as a statement of fact.

It was an editorial expression of opinion, and I felt so inclined to express that opinion.

Q. You say, "It should be borne in mind that there is no law, aye, not even a court decision."—— A. That is a fact.

Q. That is, that you desired to have these people keep in mind the facts? A. That there was no law compelling them to buy the Buck's stove and Range Company's stove or ranges, or a Loewe hat, or any other product that they did not want to buy; that they could use their own discretion in the matter.

Q. If you, in good faith, intended to obey the injunction in reference to discontinuing publications calling attention to the fact of the attitude of the Buck's Stove and Range Company toward organized Labor, and in the various ways expressed in the injunction order, why did you insert this at that point, or in that issue? A. I desired to express my editorial opinion of a fact and of the law, and so expressed it. I did so in all good faith, to impress upon the minds of all that that was a fact and that was the law.

Q. What did you want to impress it upon them for? A. It was simply my mental desire to convey that information editorially, and I did so.

Q. Do you wish to be understood as testifying that it was not your intention in inserting that language to call attention to the fact that the Buck's stoves and ranges ought not to be patronized by the members of organized labor? A. As to whether they ought or ought not, was not in my mind. What was in my mind was the statement of a fact editorially.

Q. This magazine, the American Federationist, is the official organ of the American Federation of Labor, is it not? A. It is.

Q. And your connection with that paper is by virtue of your being president of the American Federation of Labor, is it not? A. Yes sir, and its editor.

Q. Well, the constitution of your organization requires that the

president of the organization shall be the editor. A. It does not. The American Federation of Labor is not responsible for anything which appears in that paper. Its editorial expressions, and its contributed articles. For them and all else, I am responsible.

Q. I direct your attention to what is found on pages 1071 and 1072 of the original record in this case, being pages 618 and 619 of the transcript of record in the Court of Appeals, under the heading, "Exhibit "E." Extract from pages 330, 331 and 333 of the August number of the American Federationist, 1901. (Reading:)

"American Federationist.

"Official Organ of the American Federation of Labor.

Circulated throughout the United States, Canada, Mexico, Cuba and Porto Rico; goes to all affiliated National and International Unions; owned, controlled and published by the American Federation of Labor; Edited by Samuel Gompers, President
953 American Federation of Labor.

"Official Magazine of the American Federation of Labor.

Edited by Samuel Gompers, President, American Federation of Labor.

Bright, Instructive, Newsy.

The American Federationist.

"Contributions from the best economic writers of our day.

"Circulates throughout the United States, Canada, Mexico, Cuba and Porto Rico.

"Goes to all affiliated National and International Unions.

"Subscriptions fifty cents per annum. Per copy five cents.

"Published monthly at Washington, D. C., by the American Federation of Labor.

"For advertising rates address Frank Morrison, Secretary of American Federation of Labor, 423 G street, Northwest, Washington, D. C.

"The American Federation of Labor was instituted in the city of Pittsburg, Pa., November 15, 1881.

"The American Federation of Labor aims to unite all the working people of America in one general movement for their moral and material advancement. It seeks to organize and elevate all people employed in every branch of industry, and to promote all movements that are for the general good of our country. It is composed of International, National, State, Central and Local Trade and Labor Unions.

"On October 31, 1900, the component parts of the American Federation of Labor were: 82 National and International Unions, composed of 9,494 Local Unions, 16 State Federations, 206
954 City Central Labor Unions, and 1051 Local Unions, not attached to National or International bodies. The number

is much greater now. The total membership is over 1,000,000. This vast membership must have an official mouthpiece in which all official reports and documents must be published as well as to advocate their cause and to defend their interests.

"Therefore this publication, *The American Federationist*, was established by order of the Convention of the American Federation of Labor in 1893. It is the property of the organization, and is controlled, edited, published and issued by it. All profit accruing therefrom goes into the general fund of the organization.

"It is the only authorized publication of the American Federation of Labor. It is read by thousands of people in every part of the continent, outside of the Labor Organizations, as well as by the members of the American Federation of Labor.

"It contains articles in every issue from leaders in economic thought. The foreign correspondence keeps the wage workers of this continent advised as to the trend of industrial affairs in other countries. The reports from Organizers come from every state in the Union, and from Canada. They represent every trade and calling. No better, accurate or more comprehensive resumé of the latest industrial happenings is to be found anywhere.

"The *American Federationist* contains much official matter which makes it invaluable to all members of organized labor. Its comprehensive survey of general economics makes it a most interesting publication to all classes of citizens.

955

"SAMUEL GOMPERS,

*"President of the American Federation of Labor
and Editor of the American Federationist."*

And I also direct your attention to the following, to be found on pages 1075 and 1076 of the original record in this case, and on page 622 of the printed transcript of record in the Court of Appeals, as follows:

"Extract from Report of Proceedings of the Convention of the American Federation of Labor, 1901, page 30.

"Report of Samuel Gompers, President American Federation of Labor.

"For convenience, as well as to render it still more efficient to fulfil its mission, the Executive Council has decided that the *American Federationist* shall hereafter be sold at ten cents per copy, or the subscription price one dollar per year. Arrangements have been made with the Companies distributing newspapers and magazines to that on and after February 1, 1901, the *American Federationist* will be handled by them, and be kept on sale on the news stands throughout the country. The hope is entertained that, with this greater facility for reaching our fellow workers and our other friends, a much wider and larger circulation may be obtained to the advantage of all."

Now, Mr. Gompers, did you write that circular? A. That circular and that report.

Q. Both? A. I did. I would say the question of membership referred to in the circular is a little inaccurate, but it was perhaps inadvertently used, or if not inadvertently, it was used for a clearer comprehension, to advertisers.

Q. In that respect, however, the view of the membership was adopted by Mr. Justice Gould as the correct way of stating the membership? A. It is because of Justice Gould's lack of understanding of the conformation of our federation, that is all.

Q. Mr. Gompers, you stated the other day in your testimony, when I directed your attention to what Justice Gould had found on the subject of the relation of the Buck's Stove and Range Company towards organized labor and towards its employees, that you knew as a fact that those statements by his Honor were incorrect, did you not? A. If you will indicate what you want me to answer, I will answer.

Q. Then that is not sufficient to direct your mind to the subject? I will therefore have to pause long enough to find that in the record. Did you not testify in this case on the 30th of January, 1908, in behalf of the defendants, when the testimony was being taken which was to be used upon the hearing for final decree? A. As to the date, I cannot say, but about that time, I did.

Q. Before directing your attention to what you then testified, I direct your attention now to the answers you made to the questions in reference to the matter of the relation of the Buck's Stove and Range Company to organized labor, as found on pages 957 and 383 of the stenographer's minutes, and following. When I was examining you in regard to the statements made in the editorials in the February number, 1908, which was reprinted and distributed with the circular entitled, "An Urgent Appeal," you testified as follows: (Reading from page 381 of the transcript in this case:)

"Q. Now, Mr. Gompers, I want to direct your attention to another statement in this editorial which was reprinted in this circular, reading as follows:

'Labor is earnestly desirous of entering into friendly relations with employers, and this is none the less true of its desire to reach an honorable adjustment and agreement with the Buck's Stove & Range Co. So long however as that company continues in its hostile attitude to labor, denying it the right to organize, discriminates against union members and refuses to accord conditions of employment generally regarded as fair in the trade, it must expect retaliatory measures; these measures however always within the law and for the purpose of ultimately reaching an honorable mutually advantageous agreement.'

"Now the question of the relations of the Buck's Stove & Range Company to Labor was the matter in issue in that case before Judge Gould as shown by the allegations of the complaint and the admissions and denials of the answer. Were you not aware at that time that the Court, after taking testimony and listening to the claims of

counsel and the arguments adduced by them had found adversely to yourself and all the other defendants on that question?

958 "A. Mr. Davenport, it will be necessary I think for you to make your questions a little briefer if you expect me to understand them.

"Mr. DAVENPORT: I will ask the stenographer to read the question in full.

"(The stenographer read the question as above recorded.)

"Mr. SIDMONS: On what question?

"Mr. DAVENPORT: The attitude of the company towards Labor so far as the same was based on the restraining order.

"The WITNESS: Yes, but it did not interfere with my right to editorially discuss the question.

"By Mr. DAVENPORT:

"Q. In the first place had not the Court found that the company had entered into agreements with the metal polishers' union and with the iron moulders' union of North America and had scrupulously lived up to them? A. I know that they unscrupulously violated them.

"Q. That is not what you know I am asking about; I am asking about what the Court found. A. I do not know.

"Q. You had read the opinion, you say? A. I did not read it all.

"Q. You did not? A. I did not.

"Q. I thought you said you read it carefully and made it the subject of an editorial, this very editorial? A. Oh, yes; yes."

Mr. RALSTON: Is it necessary to duplicate testimony? That has already been taken and is in the record, and is it necessary
959 to put it in the record again in the shape of a question?

Mr. DAVENPORT: The counsel for the witness will remember that I endeavored, by a comprehensive question, to direct the mind of the witness to the subject, and he disclaimed any ability to understand the matter in that way and asked me to direct his attention, which I am now doing.

Mr. RALSTON: I want to say that at the proper time, and as speedily as may be, I shall ask the court to put the entire cost of taking this testimony in the first instance on the petitioners, because of the needless duplication of testimony, the needless asking of questions and the absolute waste of time and money connected with the whole examination. I give that notice at this time.

Mr. DAVENPORT: I might say with reference to that notice, that the course pursued by this objecting attorney has been the direct cause of great delay in the hearings, and an unnecessary extension of the transcript of the testimony.

Mr. RALSTON: I call the court's attention at the same time to the fact that we have offered to admit every substantial fact that was a fact connected with the whole application.

By Mr. DAVENPORT:

Q. (Continuing:)

(Reading from transcript in these proceedings, page 383:)

"Q. This very editorial was addressed to that? A. Oh, yes, thought you meant something else.

930 "Q. Now I will have the stenographer just repeat that question.

"Mr. SIDDONS: I submit the opinion of the Court and decree are in the record and speak for themselves.

"Mr. DAVENPORT: That may all be. The question is what he knew at the time when he wrote this article and sent out this circular through the country to the number of 27,000.

"(The Stenographer read the question referred to as follows:)

"In the first place had not the court found that the company had entered into an agreement with the Metal Polishers' Union and with the Iron Moulders' Union of North America, and had scrupulously lived up to them?"

"A. I do not know whether the judge used the term scrupulously.

"Q. Well, leave out the word scrupulously. Had they lived up to that? A. Yes; and which I know to be contrary to the fact.

"Q. And in the second place was not the matter of whether or not the Buck's Stove & Range Company had denied to any person in its employ or any of its laboring people the right to organize, a matter in issue in that hearing, and had not the Court found adversely to your contention in regard to that specifically? A. I am not sure that the Court so held. I know it was contrary to the facts.

"Q. Was not the question whether the Buck's Stove & Range Company had discriminated against the union members before
961 the Court in that case and upon the testimony Judge Gould held adversely to the defendants on that point? A. I am not sure, but if the Court so held I know it is not in accordance with the facts."

In making these statements the other day, as I have just read them to you, had you, when you wrote that editorial in the latter part of January, 1908, any other information upon that subject than that which you gave in your deposition or testimony on the 30th day of January, 1908? A. I had, if my memory serves me right. I am not sure whether I testified to the fact that the Van Cleave Buck's Stove and Range Company of St. Louis is a member of the Stove Founders National Defense Association. That Association had and has an agreement with the Iron Moulders' Union of North America. Under that agreement a certain——

Q. Pardon me, Mr. Gompers. I object to your diffuse answer as not responsive to the question. The question is whether you had any other information at the time you wrote that article in regard to those matters than you had when you gave your testimony on the 30th day of January? A. You may move to strike out and the court may strike it out, but the court has ruled that the testimony that may be

dicted shall go into the record in order that it may appear before the court, or any appellate court, and I desire to answer as comprehensively and as directly as I can and I want to continue my answer.

(The answer as above recorded was read by the Stenographer, and the witness continued as follows:)

962 A. (Continuing:) Under that agreement a certain price list for wages, conditions of employment, is enforceable upon all the members of the Stove Founders National Defense Association. The Van Cleave Buck's Stove & Range Company refused to scrupulously, or at all, live up to some of the terms of that agreement, and it was only by the power of that employers' association that the Van Cleave's Buck's Stove & Range Company complied with the terms of the agreement. And therefore it violated the terms of the agreement and did not faithfully or scrupulously carry out the terms of the agreement. If I did not so testify, that was my knowledge, and I know it now.

Q. That is the source of your knowledge, then, of the falsity of the facts as brought to your attention by me? A. I do not say, nor did I intimate, that it was false. That is entirely gratuitous.

Q. The question that I now ask you is whether you had any other information when you wrote that article which appeared in the February number of the American Federationist than that which you had when you testified in this case on the 30th of January, 1908?

A. Only insofar as that I knew that the representatives of the Buck's Stove and Range Company asked workmen when they applied for employment in certain departments of that company whether they were members of a union, and if informed that these applicants were members of a union, they were not employed, and that others who had been employed, and who it is known were members of a union were discharged, and for no other reason. And if my
963 memory serves me right, one of the witnesses called by you in regard to this petition, so testified.

Mr. DAVENPORT: I ask that the answer of the witness be stricken out as not responsive to the question which I have asked. I now ask the stenographer to repeat the question, and ask the witness to answer that question directly.

(The question was repeated by the stenographer as above recorded).

A. None other than what I have already answered, and the fact of Mr. Van Cleave's declarations, both in his own official organs, in his reports to the conventions of the National association of Manufacturers, the interviews which he officially gave out and statements which he officially gave out.

Q. Do you think you understand the question? A. I do think so.

Q. The editorial which you wrote was written previously to January 30, 1908? A. I think it was, yes.

Q. The question is whether you had any information when you wrote that article in reference to this subject of the relations of the

Buck's Stove & Range Company to its employes, that you did not have when you testified on the 30th of January. A. I think not even though it may not appear in my testimony then given.

Mr. DAVENPORT: Now, I want to direct to your attention and the attention of the court your testimony then given, to be found in your testimony given on January 30, 1908, on file in this case 964 and by reference made a part of the petition in these proceedings, as showing what you then knew with regard to the facts of the relations existing between the Buck's Stove and Range Company and its employes and the different unions whose members were then in the employ of the Buck's Stove and Range Company.

By Mr. DAVENPORT:

Q. I notice that in paragraph 9 of your return to the rule to show cause, in answering the ninth paragraph of the petition, you say you admit that the American Federationist has a wide circulation among the organizations and the members of the organizations affiliated to the Federation, but not among the public generally. What do you mean by that? A. That is regrettably true.

Q. Well, what do you mean by it? A. That it has not a wide circulation among the public generally.

Q. Are not copies of it issued and sold to the public? A. Yes, sir.

Q. And is not a large proportion of each issue distributed through various channels, to persons who are not members of your organization? A. No, not a large proportion; a small proportion.

Q. Is it not widely read by the public? A. It is. That is, it is widely read, and its editorials are widely republished by the daily press and by the magazines.

965 Q. In the advertisement which I call to your attention a few moments ago you state, do you not, that it is read by thousands outside of labor unions? A. Yes sir. The American Federationist goes into the libraries and is read there; it goes to the universities and is consulted and read there, and its editorials are republished by the press of the country and of other countries.

Q. The question I address to you is whether or not this magazine called the American Federationist is not read by thousands, yearly outside of labor organizations. A. It is.

Mr. RALSTON: It is not read by nearly as many as ought to read it.

The WITNESS: It is not read as widely or as generally as I should like to see it read.

966 By Mr. DAVENPORT:

Q. I want to show you, Mr. Gompers, a paper entitled "The Wage Workers," published at Lincoln, Nebraska, this particular issue being that of April 11, 1908. I show you that and wish to know if you recognize it (handing paper to witness)? A. After examination.) What do you wish of me in regard to this paper?

Q. Do you identify that as an issue of that paper? A. I have

seen copies of that paper before, and I suppose this is an issue of it.

(The paper referred to was received in evidence and marked "Exhibit A. II. No. 27").

By Mr. DAVENPORT:

Q. This is "The Wage Worker," of Lincoln, Nebraska, under date of April 11, 1908, and I would direct attention to the third page, second column, near the bottom, in large type, "We do not patronize Buck stoves and ranges."

There is one other matter to which I wish to call your attention; it was left a little open before. I call your attention, Mr. Gompers, to Exhibit A. II. No. 1, at pages 292-293, being the concluding portion of the report of the Committee on Boycott—

"Delegate McKEE: That completes the report of the committee, which is signed by the committee.

"JAMES M. LYNCH, *Chairman*.

"R. A. McKEE, *Secretary*.

"JAMES B. CONROY.

"W. A. ENGLE.

"THOMAS J. DUFFY.

"WILLIAM TATEMAN.

"A. BABLITZ.

"TIMOTHY HEALY.

"JOHN M. MAHONEY.

"DRANK W. COTTERILL.

"JOHN BRADLEY.

"MICHAEL MULDOON.

"A. A. MYRUP.

"F. C. GENGENBACH.

"GEORGE G. GRIFFIN.

"On motion the report of the committee as a whole, as amended was adopted."

Have you any doubt that that is a correct statement? A. I have no doubt of it, sir.

Q. I want to call your attention now to the September-1908 number of the American Federationist, first to pages 674, 678, 680, 682, 684, 686, 688, 690 and 692, and I will ask you whether or not you caused to be inserted in that American Federationist that which appears in those pages of the September issue, being marked "Exhibit A. II. No. 4?" A. Under protest, I answer that I did.

Q. I call your attention to the following statement contained in the Labor Day number of the American Federationist (September-1908), at page 720:

"I notice that President Gompers, Secretary Morrison and Vice President John Mitchell have been haled to court charged with violating the celebrated injunction order of Judge Gould. Money makes the mare go, and Mr. Van Cleave's

money is making this contempt case go, but we have had Van Cleave before and will have them in the future and labor will rise in its might and crush Mr. Van Cleave and all his money that may work now or in the future for the purpose of restricting labor in its fundamental rights of free speech and free press."

Did you cause that to be published? A. Under protest I noted this morning I answer that that is a quotation taken from one of the contributed articles to a symposium which I asked a number of men to write and which I caused to be inserted in part with the article contributed to the symposium and published in the September issue of the American Federationist. I caused that to be printed.

Q. I call your special attention to the following paragraph which appears on page 725 of the September-1908 issue of the American Federationist:

"We have also witnessed in the past year most serious judicial invasion and usurpation of individual liberty and human freedom by the abuse of the writ of injunction. An attempt has been made by the abuse of the writ of injunction to deny and prohibit the freedom of speech and the freedom of the press, and men have been cited to show cause why they shall not be punished purely for the exercise of the right of free press and free speech, rights not only natural and inherent in themselves, but guaranteed by the constitution
969 of our country, and which our forefathers fought to establish, and which a free people never dreamed would ever be placed in jeopardy."

Did you cause that to be published in the September-1908 Federationist? A. I answer under protest, which I noted this morning, that that which you have just read is part of an editorial which I wrote for the American Federationist for September, under the caption, "Some Reflections for Labor Day." It was part of a review of the situation in which labor finds itself and found itself during the past year. I caused it to be printed in the American Federationist for September as part of that editorial.

Q. Printed and published? A. And published, and distributed.

Q. Has this number of the American Federationist been issued? A. It has.

Q. The September-1908 issue? A. Yes, sir.

Q. Can you tell us, approximately, how large an edition it was?

A. No; but it is a fairly good edition—that is, as far as quantity and—

Q. (Interrupting.) Several thousand? A. Yes, sir.

MR. DAVENPORT: So far as I recall that is all I care to enquire of you at present. I presume that your counsel will want to ask you some questions, and that may lead to further inquiries on my part.

MR. SIDDOXS: So far as your examination in chief is concerned you announce it closed?

MR. DAVENPORT: Well, whether this is an examination in chief or cross examination, so far as my present information on the

topics is concerned I think I have enquired all that I think necessary.

Mr. SIDDOES: Then I wish to state that cross examination by counsel for respondent is reserved for another occasion when Mr. Ralston is present and can conduct it.

(At the conclusion of an informal conference, the hearing was thereupon adjourned until 10 o'clock a. m., Thursday, September 24, 1908.)

ALBERT HARPER, *Examiner.*

971 HEADQUARTERS AMERICAN FEDERATION OF LABOR,
WASHINGTON, D. C., *September 24th, 1908.*

Met pursuant to adjournment.

Present: Daniel Davenport, Esq., on behalf of the petitioners; Jackson H. Ralston, Esq., on behalf of the respondents.

Also present: Samuel Gompers, and Frank Morrison, of the respondents, and the Examiner.

Whereupon SAMUEL GOMPERS resumed the stand for further examination.

By Mr. DAVENPORT:

Q. Mr. Gompers, I show you a Washington Herald of Tuesday morning, December 24th, 1907, which I will ask the Examiner to mark as Exhibit No. 28.

(Said copy was marked Exhibit A. H. No. 28, being a copy of the Washington Herald, dated Washington D. C., Tuesday December 24, 1907, being No. 443.)

Q. I direct your attention to the following on the front page:

"Labor Will Fight, Declares Gompers.

President American Federation Breaks Silence.

War on the Open Shop.

972 Organization Necessary to Obtain Right and Justice.

Makes emphatic declaration that people will not 'buy those stoves,' and that his association will take some action in matter, the plans to be withheld from public. Voluntary arbitration."

I now direct your attention to the following in the body of the article:

"Mr. Samuel Gompers, president of the American Federation of Labor until yesterday had remained silent on the decision of Justice Gould enjoining the Federation from prosecuting the boycott against the Buck Stove and Range Company of St. Louis. The decision of Justice Gould was regarded as a hard blow to organized labor and the public has been anxious to ascertain what the next move of Mr.

Gompers and the Federation would be. When Mr. Gompers was seen by a reporter for the Washington Herald yesterday afternoon he began his statement with the declaration that the Federation did not propose to remain idle but would fight all efforts to deprive labor of its rights.

No Sale for Stoves.

'The people will not buy those stoves', said he. 'We will do something in the matter but I do not want to make the Federation plans public at present.' "

Did you make that statement? A. Let me see it.

(Counsel hands paper to witness.) I am not responsible for the headings or sub-headings or anything which is contained in
973 that article published in the Washington Herald of Tuesday, December 24, 1907. The article in its entirety seems to me to have been made up from my editorial appearing in the January issue of the American Federationist and which was printed and published before December 24th. There are some matters in that article which are expressions of opinion of the writer of the news article itself and not mine. As for the matter "I have remained silent" that is not true. I did not remain silent and do not propose to remain silent. I did exercise my right of free speech and propose to continue to exercise it. The matter of the type, the arrangement of the type, is a subject with the newspaper editor or manager and for which I am not responsible. For the form in which it appears in the Washington Herald I am not responsible and do not know anything about it.

Q. I will ask you this question specifically, then: Did you state to the reporter with reference to this injunction and the Buck's stoves, "The people will not buy those stoves. We will do something in the matter, but I do not want to make the Federation plans public at present"? A. I made no such statement, no statement directly or by inference that I would conduct or help to conduct the fight other than within the courts.

Q. The question is did you state to him that, "The people will not buy those stoves"? A. I have no recollection of having made that statement. I think not.

Q. "We will do something in the matter, but I do not
974 want to make the Federation plan public at present." Did you make that statement? A. No.

Q. You say you did not state that to the reporter? A. I have no recollection of stating it.

Q. The Washington Herald is a paper of wide circulation here, is it not? A. I do not know the circulation of the Washington Herald.

Q. Did you ever disavow that statement? A. No—I believe—

Q. (Interrupting.) Are you aware— A. (Interrupting.) Will you permit me to finish my answer?

Q. Certainly. A. While I believe the newspapers generally desire to be accurate, yet in the multitudinous affairs with which they deal errors will creep in and errors will creep in so far as I am con-

cerned. I am too busy a man to bother myself with the correction of inaccuracies which appear in the newspapers.

Q. Are you aware that a dispatch was sent out to the press generally on the evening of December 24, and published generally throughout the country embodying that statement? A. I am not aware of it but if it was I take it that it was due to this fact that was true then and is now, that usually before the American Federationist appears or is sent through the mails and is on sale, newspaper men request and they receive advance galley proof of editorials which appear in the forthcoming issue of the American Federationist and from that they usually write up a story. As to what they write I am not fully aware.

Q. Mr. Stenographer, will you repeat the question?

(The stenographer read the last preceding question.)

A. What was my answer?

(The stenographer read the last preceding answer.)

Q. I want now to direct your attention to your report to the Executive Council meeting of the American Federation of Labor, January 20 to 25 heretofore referred to in this testimony and to what appears therein on page 218 of the March number, 1908 of the Federationist as follows:

"Resolution No. 49. In conformity with the provisions of this resolution, circular was issued on November 26, to all affiliated organizations in regard to the suit brought by Mr. Van Cleave for the Buck's Stove & Range Company against the A. F. of L. its E. C. and others. The E. C. has been kept advised from time to time what steps have been taken in this matter."

Do you recall that as made in your report? A. Yes, sir.

Cross-examination.

By Mr. RALSTON:

Q. Mr. Gompers, I will ask you—— A. (Interrupting.) Before you proceed, Mr. Ralston, I will say that I had not finished my answer to the question asked me by Mr. Davenport in regard to the fight that we proposed to make. It was not merely before the courts. It was to make the fight for relief before Congress, to make the fight in the event of Congress failing to grant that relief before the people, and to endeavor to secure their co-operation in order to secure that relief by Congress.

By Mr. DAVENPORT:

Q. Then you did make that statement to the reporters? A. Whatever statement I made in regard to the fight.

Q. The question was whether you made the statement? A. I have already answered that question.

Q. Then that answers my question.

By Mr. RALSTON:

Q. You are charged here with contempt in having circulated

copies of the American Federationist of January, 1908 after the injunction went into effect. Have you ever done so? A. I have not.

Q. You are also charged with having circulated copies of the report of the annual meeting of the American Federation of Labor after that date. Did you have anything to do with their distribution? A. I had not.

Q. Who had charge of that distribution, if any occurred? A. Mr. Morrison.

Q. So far as you know has there been any distribution of the "We-Don't-Patronize" list containing the name of the Buck's Stove & Range Company since December 23, 1907? A. There has been no such distribution.

Q. Are you connected with any other publication than the American Federationist? A. I am not.

Q. Have you since December 23 contributed to any labor or reform or socialistic publication or any other publication of any kind any literature relating to the boycott of the Buck's Stove & Range Company? A. I have not.

Q. Have you in any published utterances or in any other way advocated the boycotting of the Buck's Stove & Range Company since December 23, 1907? A. I have not.

Q. Now, have you ever consciously in any way violated the injunction which went into effect December 23, 1907? A. I have not.

Q. Mr. Gompers, I think it sufficiently appears as to the relationship of Mr. Van Cleave to the Buck's Stove & Range Company as president? A. Yes, sir.

Q. Is Mr. Van Cleave also the President of the National Association of Manufacturers? A. He is.

Q. Do you know how long he has held that position? A. About four years—about three years.

Q. About three years? A. Yes, sir.

978 Q. Is he the James W. Van Cleave who recently attained prominence by newspaper attacks upon one of the presidential candidates? A. He is.

Q. He is the same man? A. He is.

Mr. DAVENPORT: Does our reservation cover this?

Mr. RALSTON: I do not think you have made a reservation. You may make it now.

Mr. DAVENPORT: I object to this as immaterial, irrelevant and impertinent, and shall ask the Court that it be stricken from the record when the matter comes up before the Court. May I now save the trouble of interposing objections to each question and answer, reserving all my objects on any ground whatsoever?

Mr. RALSTON: I am perfectly willing that all objection may be reserved by Mr. Davenport, whatever their nature may be, to each question and answer involved in the cross examination.

Examiner HARPER: Do you mean reserved to be noted hereafter or for the hearing of the case?

Mr. RALSTON: Reserved for the hearing.

Mr. DAVENPORT: Why, yes, of course.

By Mr. RALSTON:

Q. Is there a conflict existing at the present time between the National Association of Manufacturers and the American Federation of Labor? A. There is.

Q. Is Mr. Van Cleave a member of the Stove Founders National Defense Association? A. He is.

Q. Do you know the purposes of that organization? A. Yes, sir.

Q. You may state them briefly. A. As set forth in the constitution and by-laws of the Stove Founders National Defense Association.

Q. Can you state what their purposes are? A. I can, from common reports, and can quote from the constitution and by-laws of that association.

Q. Let me ask one or two questions about it first. Is it one of the purposes of that organization to enable its members to jointly lock out all the workmen in their employ if they see fit? A. It is.

Q. Is it one of the purposes or not of that organization to furnish to any shop against which there may have been a strike, a sufficient number of workmen to enable it to carry on its operations? A. It is.

Q. Are you in position to say whether those purposes have been carried out in any cases? A. In the earlier history of the organization they have been. Since the agreement between the Employers' Association and the Iron Moulders Union of North America, there

has been no necessity other than that which I testified to on direct examination under Mr. Davenport's examination in the case where Mr. Van Cleave for his company refuses to live up to the terms of the agreement.

Mr. DAVENPORT: To identify it, you mean your testimony given on the 30th of January which is on file in this case and which is referred to in the complaint?

A. Yes, sir, and the testimony which I have given in connection with that subject in the contempt proceedings now in progress.

By Mr. RALSTON:

Q. Can you state to what extent the Stove Founders National Defense Association controls the sales of its product? A. It controls them almost entirely.

Q. I should say the sales of the products of its members? A. It controls them almost entirely.

Q. It is then in the nature of a trust as I understand you? A. I suppose so, but that would be—

Q. (Interrupting:) Has it been indicted yet, to your knowledge? A. It has not.

Q. If I understand the situation there is at the present time a conflict existing between the American Federation of Labor and the National Association of Manufacturers, in which one of the branches of the latter organization has called upon the courts for assistance? A. One of the members of that organization.

Q. One question more before I leave the Stove Founders Defense Association. Is its constitution a secret thing? A. On the same printed page of its constitution, I find the words, "Private and

confidential. For the use of members only. Book No. —. Issued to Mr. —."

Q. Mr. Gompers, has the National Association of Manufacturers an organ? A. It has.

Q. What is the name of it? A. American Industries.

Q. Is Mr. Van Cleave a contributor to that? A. Frequently—almost in every issue.

Q. By the way, did Mr. Van Cleave ever have charge for that Association of the fight made at the recent Chicago Convention against the adoption of the Labor Plank? A. Yes, sir, he had charge of the fight at Chicago against the efforts made by the representatives of labor to have the Republican Party incorporate in its platform the relief which labor asked at the hands of that party and of Congress.

Q. Was he in Chicago at the time of that convention? A. Yes, sir, and appeared before the Committee on Resolutions and platform of the Republican party, and also by his attorney, Mr. Emery.

Q. Was Mr. Davenport with him at that time? A. No, sir, I did not see Mr. Davenport.

Mr. DAVENPORT: Mr. Davenport does not attend Republican conventions. He goes to the other, when he goes.

Mr. RALSTON: And he did not attend the other one either.

Mr. DAVENPORT: No, it was too far away and too high up.

Mr. RALSTON: We will find the reason of Mr. Davenport's non-attendance before we are through.

Mr. DAVENPORT: I was so busy with these lawsuits I could not attend it if I wanted to.

By Mr. RALSTON:

Q. What is this pamphlet? A. This is a copy of the American Industries, the paper to which I referred, of June 1, 1908.

Q. I will offer in evidence and read into the record for convenience the following:

"Our record of the past year, by James W. Van Cleave, President, National Association of Manufacturers."

Mr. DAVENPORT: It is understood I note an objection to this as immaterial, irrelevant, impertinent and having no bearing whatsoever upon the matter.

By Mr. RALSTON:

Q. I continue reading as follows:

"OUR RECORD OF THE PAST YEAR.

By JAMES W. VAN CLEAVE,
President National Association of Manufacturers.

The National Association of Manufacturers has just completed one of the most important years of its history. A long record
983 attests the results of its work, which has been especially successful in promoting tariff revision and checking harmful

labor legislation. This report was made to its members at the thirteenth annual convention held in New York City, May 18, 19 and 20, 1908."

Now, I desire to read further this extract, as follows:

"The Council comprises more than one hundred and thirty national, state and local organizations. In it nearly every great activity of the country and nearly every state is represented. In number of members, in the capital which they control and in the social, industrial and political influence which they exert, this is by far the largest and most powerful league of conservative and public-spirited citizens ever formed in any country in the world.

"That, gentlemen, was shown in the demonstration that occurred ten days ago in Washington. At that time the pressure had been so terrific upon Congress that it seemed that it had lost all the courage that it usually has, or at least sometimes has, but through our counsel and through the machinery of the organization, within forty-eight hours we had over ten thousand telegrams and letters sent, a demonstration the like of which had never before been made and which had an instantaneous effect. The result was that it seemed up to last Saturday, that it would be impossible for any influence to break down that effect far enough to enact any labor legislation. While, owing to the tremendous pressure from high sources, we may not be

entirely successful in preventing some sort of anti-injunction bill, although I doubt even that, it shows what power is in the hands of the conservative business element of this country without regard to politics, if you will only organize and work from a concrete standpoint. Remember that in these days the only salvation for the situation is through the conservative business element of the country."

And again I quote as follows:

"Several circumstances combined, during the past twelve months, to make the work of our Association particularly important. I may broadly outline some of them thus."

And again I quote as follows:

"I need hardly remind my fellow members that the officers of the Association were well aware of the plottings of the leaders of organized labor, and that they took prompt and effective steps to aid in defeating them."

Now, Mr. Gompers, can you say anything as to the correctness of that statement with regard to the multitude of telegrams being poured in on Congress in order to prevent relief asked for by labor organizations? A. That is true, to a very large extent.

Examiner HARPER: Are you going to file this paper physically?

Mr. RALSTON: No.

Mr. DAVENPORT: If you put in any part of that you should put it all in.

Mr. RALSTON: You may put in anything you want to.

Mr. DAVENPORT: Let us understand about this: Do you propose to offer—

985 Mr. RALSTON: I am offering the extracts I have presented and read.

Mr. DAVENPORT: I object to that as an improper mode of presenting the matter. The whole article should be offered and marked as an exhibit and then you may read from it and direct the attention of the witness to it.

Mr. RALSTON: I may say for your benefit and for Mr. Gompers that if we may be furnished with duplicate copies, the whole thing may go in, but we do not want to spoil our files. We regard this as a very valuable production.

Mr. DAVENPORT: We cannot help spoiling the files. The point is as to the way of presenting testimony to a Court of Equity and I object to the method pursued here. There excerpts separated from their context might be very misleading and therefore the whole thing should be filed as an exhibit if it is to be offered at all. Now let us understand about this. Are you going to put this in?

Mr. RALSTON: No. If there is anything you think ought to go in in addition, we will be very glad to have it go in.

Mr. DAVENPORT: That is not incumbent upon me. I interpose this objection at this time to this mode of presenting excerpts from the article by reading therefrom without putting in the whole article. There is no way by which of course the matter can be verified as to its correctness by the Court unless that is done. Do you refuse to put it in as an Exhibit or file it as an exhibit?

Mr. RALSTON: I will offer it to you to put in as an exhibit
986 if it is desired in its entirety.

Mr. DAVENPORT: I do not offer it.

Mr. RALSTON: I have offered so much of the extracts from that matter as seem to me to be material. You have noted your objection. I do not see anything else to say.

Mr. DAVENPORT: I call attention to the long practice and I have suggested to you and almost implored you to pursue the usual and proper course.

Mr. RALSTON: I appreciate your interest in the presentation of my case.

Mr. DAVENPORT: At present of course I am unable to take any further steps but at the proper time I shall move for the striking from the record of the excerpts you have offered. I do not know as I can do any more.

Mr. RALSTON: We may offer the whole thing later if we find we have copies. It is merely a physical matter with us now. We have only these copies.

Mr. DAVENPORT: Even the files of the American Federation of Labor must yield.

Mr. RALSTON: Having received this very valuable instruction from Mr. Davenport as to the proper way of conducting my case, I trust I will be permitted to proceed.

By Mr. RALSTON:

Q. Now, Mr. Gompers, you have stated that you saw Mr. Van Cleave in Chicago. You knew the work that took him there? A.

Yes, sir—

Q. (Interrupting:) That took him to Chicago? A. No, sir. I only know that I saw him at the meeting of the National Republican Committee on Platform and Resolutions.

Q. Do you know the purpose for which he went there? A. Yes, sir.

Q. What was it? A. To oppose the incorporation of the requests which the representatives of labor made upon that Committee of the Republican Platform and Resolutions, to incorporate in that platform the relief which we believed, which the representatives of labor believed would grant the relief from an intolerable condition of affairs.

Q. Now, Mr. Gompers I will ask you if you can identify the paper which I now hand you? A. This is a copy of the American Industries for July 1, 1908, the official organ of the National Association of Manufacturers of which Mr. Van Cleave is President.

Mr. RALSTON: I will offer in evidence this article by Mr. Van Cleave and read certain parts of it.

Mr. DAVENPORT: Let it be marked as an exhibit then.

Mr. RALSTON: Yes, you may mark it.

Examiner HARPER: Will you mark this other one too?

Mr. RALSTON: Yes, you may mark them both. I will offer them both in evidence.

(Said exhibits were marked respectively Exhibit A. H. No. 29, being a copy of American Industries, dated June 1, 1908, Vol. VII No. 8, and copy of American Industries dated July 1, 1908, Vol. VII No. 10, the latter being marked Exhibit A. H. No. 30.)

Mr. RALSTON: I will read a part of this article which seems to me pertinent:

"THE WORK DONE AT CHICAGO.

By JAMES W. VAN CLEAVE,

President National Association of Manufacturers.

President Van Cleave describes the work done at Chicago by the National Association of Manufacturers, the National Council for Industrial Defense and business men generally to defeat the efforts of organized labor interests to discredit the judiciary, emphasizing the splendid unity of purpose displayed by business men wholly regardless of politics.

At the outset, allow me, on behalf of all the members of the National Association of Manufacturers, to thank the business men of the country for their grand rally at Chicago against the enemies of public order."

Let me at this point ask you, Mr. Gompers, have you ever in any

way or manner preached disorder? A. Emphatically no. The contrary I have always declared.

Q. Have any resolutions or actions of the American Federation of Labor tended toward disorder? A. Never; to the contrary, sir. It has always been an organization insisting upon the law abiding character of every activity of the men of labor and those who are associated with the labor organizations.

Mr. DAVENPORT: It is understood my general objection 989 covers this?

Mr. RALSTON: Yes, sir.

By Mr. RALSTON:

Q. I read further as follows:

"Over twenty thousand telegrams were received by the Resolutions Committee of the Republican National Convention and by the party leaders there, protesting against the proposed planks in the Republican platform in the direction of abolishing the injunction and legalizing the boycott. The telegrams of protest came to the members representing each state and territory on the committee from persons in their respective communities. They were sent by individual business men, by prominent lawyers and by members of business and citizens' organizations all over the United States.

We who were at Chicago through the whole of the convention week working against the threatened class declaration can testify to the influence which these protests exerted. Through individual telegrams and the press of the entire country we made an appeal for these telegrams, and the response was immediate. The appeal was made at a critical moment in the proceedings, and the response had to be instantaneous, in order to be of any use whatever. The avalanche of protests which rolled into Chicago warned the committee and the convention that the great mass of the American people was behind us. Then the objectionable planks were thrown out."

If I understand the meaning of this statement, Mr. Gompers, it is that upon the appeal of the National Association of Manufacturers, the anti-injunction plank presented by yourself and your 990 associates was thrown out of the Republican National Convention. Is that correct? A. It is, sir.

Q. Mr. Gompers, what is the attitude of the American Federation of Labor as to the eight hour law? A. It has always endeavored to secure the passage of a law by Congress and by the State Legislatures and municipalities for a limitation of the working day to eight hours so far as it applies to employes of the Government and on work done for the Government.

Q. What is the attitude of the Association represented by Mr. Van Cleave toward the eight hour law? A. To the eight hour movement?

Q. Yes. A. One of hostility.

Q. I call your attention to a copy of American Industries for June 15, 1908, and ask you if you identify it? A. Yes, sir.

Q. State what it is. A. It is a copy of American Industries dated June 15, 1908, the official organ of the National Association of Manufacturers, of which Mr. Van Cleave is President.

Mr. RALSTON: I offer this in evidence.

(Said document was marked Exhibit A. II. No. 31, same being a copy of American Industries, Vol. VII. No. 9, June 15, 1908.

By Mr. RALSTON:

Q. I desire to read as follows from this Exhibit, page 18.

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"PRESIDENT'S PAGE.

James W. Van Cleave, President National Association of Manufacturers.

The National Association triumphed in the defeat of class legislation in Congress, but its work in this direction must be continued if the fruits of that victory are to be secured. Organized labor is trying to obtain concessions from the two great political parties. These efforts must be opposed."

I now desire to direct your attention to this statement. "Among the things which we oppose is an eight hour law." Will you also state what is the attitude of the American Federation of Labor toward the child labor law?

Mr. DAVENPORT: May I at this time, Mr. Ralston inquire what is the pertinency of this evidence? How do you construe it as bearing upon the issues raised in these contempt proceedings?

Mr. RALSTON: I think I would rather defer the discussion of the case until we come before the court in that respect. I think it will appear perfectly manifest when we get before the court.

A. One of intense interest and desire to secure legislation that shall prohibit the labor of children.

Q. Can you state the general attitude of the National Association of Manufacturers as represented by Mr. Van Cleave toward
992 that subject? A. One of either general apathy or antagonism.

Q. I desire to add this extract from page 19 of the same article.

"Among those which we do not oppose is such child labor legislation as looks at the subject from the side of the child, the parent and the employer dispassionately and intelligently. This and the modification of the Sherman law are among the questions to which the National Association of Manufacturers must give careful examination, so as to be able to make valuable suggestions to Congress when in 1908 or 1909 or afterward, it takes those issues up for action."

Now I will ask you to describe the document which I now hand you, Mr. Gompers. A. It is a copy of the American Industries of May 1, 1908, the official organ of the National Association of Manufacturers of which Mr. Van Cleave is President.

Q. Do you know the attitude of the National Association of Manufacturers toward Mr. Roosevelt's position with regard to the modification of the anti-injunction law? A. One of hostility.

Q. Hostility to the Presidential attitude? A. Yes, sir, to the injunction practice.

Mr. RALSTON: I will offer this exhibit in evidence.

(Said paper was marked Exhibit A. H. No. 32, being a copy of American Industries, Vol VII. No. 6, dated May 1, 1908.)

Mr. DAVENPORT: Am I permitted to inquire in that connection whether or not the attitude of the American Federation of Labor is not also hostile to the Presidential attitude?

Mr. RALSTON: Not on the anti-injunction business, not as it was represented by him last winter.

Mr. DAVENPORT: I hardly think Mr. Gompers would want to have that so appear.

The WITNESS: I will say the hostility or rather the objection on the part of the American Federation of Labor to the attitude of President Roosevelt upon that subject is not that of hostility to his position that some remedy should be made. Our position is that what he suggested would not be the remedy. The opposition of Mr. Van Cleave and the National Association of Manufacturers is against any remedy at all.

Mr. RALSTON: Then it is a difference of method and not of principle.

Mr. DAVENPORT: Does that comment of the attorney correctly interpret the answer of the witness?

The WITNESS: Hardly.

Mr. DAVENPORT: Hardly?

The WITNESS: No Hardly.

By Mr. RALSTON:

Q. Referring to Exhibit 32 I will read the following head notes.

"THE PRESIDENT'S PAGE.

James W. Van Cleave, President National Association of Manufacturers.

Every member of the National Association should attend the annual convention when the program of the coming year will be decided. The National campaign of 1908 will be the most important in a generation. To hold its ground against criminal class legislation demanded by union labor the Association must again stand by the candidates who represent the cause of true Americanism."

Mr. Gompers, what criminal class legislation was union labor demanding? A. Absolutely none. That is a wilful perversion of the truth on the part of Mr. Van Cleave.

Q. Now I will read from page 19 of the editorial entitled "The Results of the Year's Work."

"The fact that the Federation imagined that President Roosevelt and some of the Presidential aspirants were behind it made it especially an offensively persistent and autocratic in its demands. The National Association of Manufacturers can claim for itself a good deal of credit for shaping and directing the public sentiment which has encouraged Congress to defeat the Federation's leaders' conspiracy."

Mr. Gompers, who represented the National Association of Manufacturers before Congress to induce Congress to defeat what Mr. Van Cleave calls your conspiracy? A. Mr. Davenport, the counsel in this case, and counsel in these proceedings of the Buck's Stove & Range Company against the American Federation of Labor and my colleagues and myself, and Mr. Emery, the counsel for the National Association of Manufacturers.

Mr. DAVENPORT: Are you testifying from your own knowledge that I represented the National Association of Manufacturers before Congress or in any other place?

The WITNESS: Will you please read my answer?

(The stenographer read the answer of the witness as above recorded.)

The WITNESS (continuing): —Appeared in opposition to the legislation labor sought at the hands of Congress.

Mr. DAVENPORT: Now let me hear that whole answer read as the witness intends it.

The STENOGRAPHER (reading): "Mr. Davenport, the counsel in this case and counsel in these proceedings of the Buck's Stove & Range Company against the American Federation of Labor and my colleagues and myself and Mr. Emery the counsel for the National Association of Manufacturers, appeared in opposition to the legislation labor sought at the hands of Congress."

Mr. DAVENPORT: I now repeat my question, are you testifying from your own knowledge that I represented the National Association of Manufacturers before Congress or in any other place? A. I did not so testify. I testified to the fact that you as counsel for the Buck's Stove & Range Company in these proceedings, appeared also in opposition to the legislation. I designated Mr. Emery as one of the counsel or as *the* counsel for the National Association of Manufacturers. I did not so testify as to you, sir.

Mr. DAVENPORT: Do you wish to have it noted on the record that I appeared there in opposition to this legislation as counsel for the Buck's Stove & Range Company? A. I did not so state.

Mr. DAVENPORT: I did not suppose you did.

Mr. RALSTON: Then what is the use of prolonging the discussion?

Mr. DAVENPORT: I think it is due to Mr. Gompers that he appear correctly in this matter.

The WITNESS: I know this, that the American Industries, the official organ of the National Association of Manufacturers of which

Mr. Van Cleave is President, often or favorable comments upon, or rather contains statements and arguments on the activities of Mr. Davenport in opposition to the legislation which labor asks and often favorable comments upon his activities in that regard.

Mr. DAVENPORT: As representing whom? A. I have always had some difficulty in finding out whom you did represent except in this proceeding before the court.

Mr. DAVENPORT: Did he not state it was in behalf of the American Anti-Boycott Association? A. Whatever that may mean. I have never been able to learn there was any such organization in existence. As a matter of fact I am——

Mr. DAVENPORT (interrupting): Of course this is for the purpose of getting this straight in the record. A. I want to have the right to finish what I started to say, and that is I have asked on frequent occasions from Mr. Davenport and others or from Mr. Davenport as to whether there was such an organization in existence and to give some evidence of it. They have never yet been willing to submit such information.

Mr. RALSTON: I think it will be better to reserve your cross examination, Mr. Davenport, and we will get along faster.

By Mr. RALSTON:

Q. Mr. Gompers, what is the attitude of the Association of Manufacturers with regard to the anti-injunction plank so-called of the two parties? A. The attitude of the National Association of Manufacturers as represented by Mr. Van Cleave, its president in public utterances and in interviews published and in statements made in the official organ of that association, the American Industries—the attitude of Mr. Van Cleave and his association is hostile to the declarations of the platform of the Democratic party as adopted at Denver and one of entire accord with that declared for by the Republican party at its convention in Chicago.

Q. I hand you a publication and ask you what it is. A. It is a copy of the American Industries of August 1, 1908, being the official organ of the National Association of Manufacturers of which Mr. Van Cleave is President.

Mr. RALSTON: I now offer in evidence this number of the American Industries.

(Said paper was marked Exhibit A. II, No. 33, being a copy of American Industries, dated August 1, 1908, Vol. VII, No. 12.)

998 By Mr. RALSTON:

Q. I read from the cover of this Exhibit as follows:

"INJUNCTIONS UPHELD.

"Threatened unlawful injuries to business can only be adequately remedied by an injunction to prevent them. The jurisdiction of a court of equity to enjoin in such cases arises from the character of the injury and the method of inflicting it and the fact that suit for damages offers no adequate remedy. The unlawful injury is not usually done by one single act, which might be adequately com-

nsated for in damages by a suit at law, but it is the result of a constantly recurring series of acts, each of which in itself might not constitute a substantial injury or make a suit at law worth while, and all of which would require a multiplicity of suits at law. Injuries of this class have since the foundation of courts of equity been prevented by injunction.'

From William H. Taft's Speech of Acceptance."

A. The words "Injunctions upheld"—

Q. (Interrupting.) They are the words of the editor, are they not?

Yes, sir; and the part quoted from Mr. Taft's speech of acceptance substantially the basis of this injunction suit and these contempt proceedings under that injunction.

Q. I understand you then it is in reliance upon Mr. Taft's decisions that you are here today? A. Justice Gould in his opinion asserts and quotes from Judge Taft's injunction issued by Judge Taft while upon the bench.

Q. Judge Taft's standing in the matter then having the endorsement of the National Association of Manufacturers? A. Yes, sir.

Q. Mr. Gompers, I wish you would state whether in the case now pending before the courts the American Federation of Labor is being made the object of a systematic attack on the part of large employers such as Mr. Van Cleave and his associates? A. Yes, sir.

Q. Are these employers circularized for the purpose of raising funds to carry on this litigation? A. They have been and are. Mr. Van Cleave as President of the National Association of Manufacturers, at the Convention of that Association a little more than a year ago, recommended the raising of a fund of a million and a half of dollars for what he termed educational purposes, and the educational purposes were in line of, as he termed it, correcting the abuses of the labor organizations and every action which the labor organizations have taken have been and are interpreted by Mr. Van Cleave as being abuses.

Q. Under this common management I wish you would state whether or not an attempt is being made to destroy labor organizations all over the country? A. Yes, sir.

Q. I will show you a circular dated December 21, 1907, and ask you what it purports to be? A. It is a circular issued by what purports to be the American Anti-Boycott Association. Its heading is:

"AMERICAN ANTI-BOYCOTT ASSOCIATION.

27 William Street, New York.

Frederick R. Boocock, Secretary.

Walter Gordon Merritt, Ass't to the Chairman.

James M. Beck (Ex. Assistant U. S. Attorney Gen.), General Counsel.

Daniel Davenport, General Executive Agent and Counsel."

Q. When was Mr. Beck Assistant Attorney General, do you know?

A. I do not know.

Q. Have you anything to say in regard to this exhibit which I now offer and ask to be marked Exhibit No. 34? A. Yes, sir.

(Said letter was marked Exhibit A. H. No. 34, being a letter dated "New York, December 21st, 1907," signed "F. R. Boocock," Secretary.)

Mr. DAVENPORT: It is not necessary for me to repeat and renew my objection, it being understood that all this character of evidence is objected to by me and all objections reserved.

A. I want to call attention to the fact that this and other similar circulars or duplicate letters were received by me and sent here
1001 by a number of fair minded employers of labor and yet who feared to have their names appear upon the circular as received by them, being apprehensive that they would be subject to discrimination and boycott at the hands of the Manufacturers Association.

Mr. DAVENPORT: By the way, I want—

A. (Interrupting.) You will find the names are cut out from these circulars.

Mr. DAVENPORT: I want now to object to any hearsay evidence of course, any of this that is hearsay.

The WITNESS: This is not hearsay. It is a fact.

Mr. DAVENPORT: If it was sent here by these people it was either furnished by them in person or sent by letter. If sent by letter, the letter is the best evidence of that fact. I interpose an objection to this kind of testimony from Mr. Gompers as hearsay, in addition to all the other objections to it.

By Mr. RALSTON:

Q. Mr. Gompers, I wish you would state what this is which I now hand you? A. A typewritten circular letter of the American Anti-Boycott Association, signed by Mr. Boocock as Secretary.

Mr. RALSTON: I will offer that in evidence.

(Said paper was marked as Exhibit A. H. No. 35, being a letter dated New York City, January 29, 1908, and signed, "F. R. Boocock, Secretary.")

By Mr. RALSTON:

Q. Is the same Anti-Boycott Association, represented here
1002 by counsel, engaged in other operations for the destruction of trade unions? A. They are. This is a circular of the American Anti-Boycott Association, signed by Mr. Boocock as Secretary.

Mr. RALSTON: I will offer this in evidence.

(Said circular letter was marked Exhibit A. H. No. 36, being a letter dated New York City, May 20th, 1907, and signed "F. R. Boocock, Secretary.")

Mr. RALSTON: I will read at least a part of this into the record at this point.

"AMERICAN ANTI-BOYCOTT ASSOCIATION.

Frederick R. Boocock, Secretary.

Walter Gordon Merritt, Ass't to the Chairman.

James M. Beck (Ex. Assistant U. S. Attorney Gen.), General Counsel.

Daniel Davenport, General Executive Agent and Counsel.

NEW YORK CITY, *May 20th, 1907.*

DEAR SIRs: We enclose for your perusal copy of an advertisement published in the four daily papers of Wilkes-Barre, Pa., on Saturday, May 11th. For about two years the building trades of that city have been observing the "open shop" principle, and it is estimated that ninety per cent of the construction work is being prosecuted on that basis. Under these conditions it is stated that Wilkes-Barre now leads other Cities in the percentage of increase of building operations.

1003 Despairing of winning back its lost advantage by rational methods, the Building Trades Council has attempted to coerce public sentiment by the threat of commercial boycott of those local tradesmen who do not express themselves in harmony with the purposes and wishes of the unions.

As you know Wilkes-Barre is located in the heart of the Anthracite Coal mining region, and a veritable nest bed of unionism. Under these conditions it seemed propitious to make such a reply as would present the issue in the strongest light possible and thus favorably influence public sentiment by an appeal to reason, equity and patriotism. It seemed fortunate also that the reply could be made by an Association whose very name suggests so clearly the resistance in every manner, of the "boycott" either of products or of labor.

This procedure reveals the possibilities and practicability of like publications in similar manner from time to time in various cities as conditions justifying such treatment may arise.

Trade union members are so often misled by the prejudicial appeals and fallacious reasoning of their leaders, as to make it desirable to bring conspicuously to their notice the ethical, industrial and legal considerations, which should convincingly demonstrate the inexpediency, uselessness, and danger of resorting to practices that only serve to upset business conditions, jeopardize their own employment, often involve their own possessions, and without achieving any material benefits for themselves.

The possibilities of conservative, rational, and effective achievements through the agency of this Association along lines of
1004 litigation, publication and preservation of law is becoming increasingly evident to employers of labor, and we strongly appeal for an enlargement of our opportunities through the accession to our enrollment of those who sympathize with our motives, endorse our conduct, and desire industrial peace.

May we not have your co-operation and affiliation?

Yours very truly,

F. R. BOOCOCK, *Secretary.*"

By Mr. RALSTON:

Q. Have there been industrial troubles in Wilkes-Barre do you know? A. Occasional.

Q. Do you know anything further of the connection of this association with those troubles? A. Tending to defeat the workmen in every way and to crush out their organizations. That is all.

Q. I call your attention to this paper and ask you what it is. A. It is a copy of a circular, several of which I have received issued by Mr. Van Cleave, President of the National Association of Manufacturers, and it says at the bottom of this circular that, "Copies of this pamphlet may be had by addressing the National Association of Manufacturers, 170 Broadway, New York, or Chemical Building, St. Louis."

Mr. RALSTON: I offer that in evidence.

1005 (The pamphlet was marked Exhibit A. H. No. 37, being a printed pamphlet of four pages, dated June 30, 1908, and signed "James W. Van Cleave.")

By Mr. RALSTON:

Q. There is some language in this to which I desire to call your attention as follows:

"For the first time the ignorant and autocratic labor bosses have been met on their own ground by the solid, sane, conservative element of the country's citizenship and have been overwhelmingly, ignominiously beaten."

This is dated June 30, 1908. Do you know to whom Mr. Van Cleave was undertaking to refer as "ignorant, and autocratic labor bosses"? A. I think it was generally understood that it referred to myself and my colleagues in the American Labor movement—John Mitchell, Frank Morrison, John B. Lennon, James O'Connell, Max Morris, C. A. Hayes, Daniel Keefe, William G. Huber, Joseph Valentine, and many others.

Q. Were there representatives of what were known as the Railroad Brotherhoods with you in Chicago when the matter was up there, seeking the same kind of legislation? A. Yes, sir.

Q. Who were they? A. Mr. Fuller, representing the Railroad Brotherhood and another gentleman whose name I cannot now recall.

Q. What do you call the Railroad Brotherhood? A. The Brotherhood of Locomotive Engineers, Brotherhood of Locomotive
1006 Firemen and Enginemen, the Order of Railway Trainmen, and the order of Railway Conductors.

Q. Was Mr. Fuller among those classed as "Ignorant and autocratic labor bosses," do you know? A. I do not see how he can escape that appellation—I cannot see how that inference can be escaped,—what was the question?

(The stenographer read the question last above recorded.)

A. There is no doubt in my mind, since Mr. Van Cleave is op-

posed to any declaration at all upon the subject of the injunction abuse.

Mr. DAVENPORT: What is the date of the circular?

Mr. RALSTON: The 30th of June, after the Republican Convention.

Mr. DAVENPORT: He was one of the gentlemen that opposed Mr. Gompers before Congress?

The WITNESS: No, sir, he was not.

Mr. DAVENPORT: Yes he was.

Mr. GOMPERS: No he was not.

Mr. DAVENPORT: Well, you will find that you are mistaken.

Mr. GOMPERS: He did not want to go as far in the eradication of the evil. He wanted notice that the wrong would be done, and Mr. Fuller before the committee of Congress upon that subject said that he favored the Peary Bill as advocated by the American Federation of Labor, but he did not know whether it could be secured at the hands of Congress and in that respect alone was he not in accord with us?

1007 Q. Was Mr. Fuller present at Denver at the same time you were? A. Yes, sir.

Q. And appeared also before the convention there? A. Before the Platform Committee, yes, sir.

Q. And accepted its work, as I understand it?

Mr. DAVENPORT: Are you testifying, or is he testifying?

Mr. RALSTON: I put it as a question, but Mr. Gompers has not answered it yet.

A. Yes, sir in so far as he had power to do so, so far as the committee had made a report; and the Chief of the Brotherhood of Railway Trainmen of which Mr. Fuller is particularly a member has issued a circular to the membership of that organization setting forth the declarations of both political parties upon that subject and calling upon the members to exercise their judgment in this campaign in making their choice for presidential candidates.

Q. I also call attention to the following:

"Thus our victory marks a new epoch in the country's political development. I want to caution my readers, however, against thinking that this victory is final. It is altogether possible that the enemies which we have just beaten may be re-enforced at Denver, and thus the battle which we fought at Chicago in June may have to be fought over again and on a larger scale at the polls in November."

Do you know if Mr. Van Cleave is now continuing that fight? A. He is, sir.

Q. Mr. Gompers, who is Mr. Leonard Kimball? A. Mr. Kimball is a member of the National Association of Manufacturers.

Q. Of which we have been speaking? A. Yes, sir, of which Mr. Van Cleave is president.

Q. Have you ever before seen this paper which I now show you? A. Yes, sir. It is a letter issued to a number of people throughout the country by the Lincoln Farm Association appealing for contributions to make the Lincoln Farm a public park to perpetuate the memory of Abraham Lincoln. Among the gentlemen who are officers of that—the following is a list of the officers of that association:

“Joseph W. Folk, President.

Clarence H. Mackay, Treasurer.

Richard Lloyd Jones, Secretary.

Robert J. Collier, Chairman of the Executive Committee.

Frederick E. Pierce, Assistant Treasurer and General Manager.

Board of Trustees.

Horace Porter,	Edward M. Sheppard,
William Travers Jerome,	Samuel Gompers,
Jenkin Lloyd Jones,	William H. Taft,
Charles A. Towne,	August Belmont,
Samuel L. Clemens,	Henry W. Watterson,
1009 Lyman J. Gage,	Cardinal Gibbons,
Ida M. Tarbell,	Albert Shaw,
Norman Hapgood,	Thomas Hastings,
Joseph H. Coate,	Oscar S. Straus.”

Q. What is the mark to which I now call your attention? A. It is the Union label of the Allied Printing Trades.

Q. And what is the sticker below it? A. A little red sticker upon which is printed the following.

“This is returned because it bears the

UNION LABEL

Which is the “Trade Mark” of the largest and most radical Trust of the day.

We are for liberty, and will not patronize those who are bound up with the Combine and use its “mark”.”

Q. Do you know the history of that? A. Yes, sir.

Mr. DAVENPORT: What letter is it?

Mr. RALSTON: I will introduce it in evidence.

1010 Mr. DAVENPORT: Let it be introduced so we can see the connection of the oral testimony.

(The letter offered was marked Exhibit A. H. No. 38, being a letter dated “New York, December 3, 1907,” and signed, “The Lincoln Farm Association by Clarence H. Mackay, Treasurer.”)

The WITNESS: The sticker has been used in a number of letters received by persons to whom Mr. Mackay as Treasurer of the Lincoln Farm Association appealed for contributions to make the home

where Lincoln was born a public park in memory of Lincoln. It was a boycott; it was a refusal to contribute because the circular contained this union label and in other circulars because they contained my name as a member of the Board of Trustees of that patriotic association.

Q. In other words an indirect boycott indulged in by Mr. Leonard Kimball or a direct boycott if you will, he being one of the officers of the National Association of Manufacturers? A. One of the members.

MR. DAVENPORT: Is that a statement of counsel or is it a question?

MR. RALSTON: It is a question, which Mr. Gompers, I think, has answered.

By MR. RALSTON:

Q. Mr. Gompers, I will ask you if you can identify this paper which I now hand you? A. This is a circular letter signed by Mr.

Van Cleave, Chairman of the National Association of Manufacturers dated February 15, 1908.

MR. RALSTON: I will offer that in evidence.

(Said letter was marked Exhibit A. H. No. 39, being a letter dated St. Louis, February 15, 1908, and signed, "J. W. Van Cleave, Chairman.")

MR. RALSTON: I want to read into the record this much of this letter:

"Supposing you should find some morning that, due to the lack of organized, systematized efforts, Congress has established a compulsory eight-hour law, or an anti-injunction law encouraging lawlessness, violence and boycotts during industrial disturbances; or an employers liability law, similar to one recently passed in England, making you responsible for accidents to your employees, factory or office, whether at home or at work, what would you do? Likely you would deplore the lack of concerted action among the manufacturers."

This is signed by J. W. Van Cleave. Now, Mr. Gompers, we have already seen that the manufacturers Association represented by Mr. Van Cleave, who as I have said takes a prominent part politically now, is opposed to an eight hour law. Has the anti-injunction law which you have at any time asked, been any broader then the law existing today in England? A. It was not.

Q. Would you or your organization be absolutely content with the adoption by Congress word for word as nearly as may be of the English rules governing the subject? A. Yes, sir.

Q. Have you known or heard of the English statute law controlling this subject, encouraging lawlessness, violence or boycotts during industrial disturbances—I mean boycotts in the objectionable sense of the term? A. I have not.

Q. This letter refers to an employer's liability law. Are you in favor or have you advocated any law any broader than that of England? A. No. The expression of President Roosevelt upon that

subject in his Jamestown speech is that for which the American Federation of Labor has declared long years ago and now asks, practically that the accidents which occur in industry should be borne by the industry rather than the man who should meet with the accident or the family of the man who may be killed in an accident in the performance of his work as a toiler.

Q. Then as I understand, the National Association of Manufacturers through its president, Mr. Van Cleave, in fighting you and in its appeals to the public, is fighting against a degree of civilization already attained in England? A. That is the fact, sir.

Q. Mr. Gompers, I think you testified in the original case or the principal case here to the proposition on the part of Mr. Van Cleave to raise a million and a half dollars to fight labor? A. I have.

Q. In addition to the developments of this morning as to the expenditure of money have you ever known of any other manner in which that money has been used, so far as you are able
1013 to observe? A. Yes, sir.

Q. State what they are. A. I cannot recall them all. I can recall a few. Some men in the labor organizations who have been suborned to spy upon their fellow workmen in the shops and factories and mills and mines, to report doings of meetings or transactions of meetings of unions, to spy on the personal conduct of workmen after working hours, to follow from place to place in the cities in which representative laboring men, either live or were located, traveling with them, and attempts to bribe representative labor men to cease their connection with the labor organizations, to turn traitor to the labor organizations and to give their activities to the National Association of Manufacturers, offering them substantial bribes in money and guaranteeing financial safeguards for their entire future; and others of a similar character.

Q. Mr. Gompers, what is the relationship between C. W. Post of Battle Creek, Michigan and the National Association of Manufacturers? A. Mr. Post is president of the Citizens Industrial Association of America, of which Mr. Van Cleave is first vice president.

Q. What are the general purposes of that Association? A. Exactly similar to the National Association of Manufacturers in so far as labor organizations and representatives are concerned.

Q. What is the paper which I have just handed you? A.
1014 A clipping from the Washington Evening Star of Thursday, March 12, 1908.

Mr. RALSTON: I will offer this in evidence.

(The clipping was marked Exhibit A. H. No. 40, being a portion of page 9 of the Washington Evening Star, Thursday, March 12, 1908.)

By Mr. RALSTON:

Q. I want to ask you if similar advertisements were generally published throughout the country? A. They were.

Q. In this article labor leaders are referred to as labor socialists. Is that correct? A. That is the reference to us in that paper in that advertisement.

Q. Is that a correct epithet? A. It is the most incorrect epithet that could be applied to us.

Q. I will ask you to identify this clipping which I now hand you. A. That is an advertisement of Mr. Post over his signature published in the Washington Evening Star of Tuesday, January 28, 1908, and was published in many papers throughout the United States on the same date.

Mr. RALSTON: I will offer that in evidence.

(The said clipping was marked Exhibit A. H. No. 41, being a portion of page 9 of the Washington Evening Star, Tuesday, January 28, 1908.)

1015 By Mr. RALSTON:

Q. The heading is "Free Riot Laws." Do you know what laws were referred to as "Free Riot Laws"? A. The Eight-Hour Bill, the Employers Liability Bill, the Bill to Regulate, Limit and Define the Issuance of Injunction, the Child Labor Law, and similar legislation advocated by the workmen of the country.

Q. Have you, Mr. Gompers been followed by detectives? A. I have sir,—they have and I have.

Q. What do you mean by "they have"? A. My colleagues of the Executive Council have and I have on numerous occasions.

Q. Do you know the occasion of that happening or the reason for it? Do you know in whose interest it was done? A. At the instance of Mr. Van Cleave.

Q. And for what purpose? A. To bring to him such information that could in any way reflect upon my conduct or upon my course in the cause of labor.

Q. For how long a time have you noticed that you were followed by detectives? A. For more than a year.

Q. Do you remember when you first noticed it? A. Sometime last summer.

Q. Do you mean over a year ago? A. Yes, sir.

Q. Where was that or do you recall? A. On one occasion
1016 in this city where a man followed me from my house to the car, on to the car, got out with me at the corner of Fifth Street and G, the corner of the block where the American Federation of Labor is situated. I remained in my office all day as is my usual custom when in Washington, and upon my leaving the office in the evening that same man stood opposite to the office, followed me on the car, remained on the car to the time when I got out and until I walked to my home. When I left my home later in the evening I came down to the office of the Federation and he got out where I did and at the same time and walked with me until I reached my office and entered. And when I left about 10:30 o'clock in the evening, he was there. I walked to the corner of the street and took the car homeward. He took the car with me and walked on the opposite side of the street until I did not see him again when I retired for the night. This was repeated for several days. On one of those occasions he kept closer to me. One evening I attended a meeting of a lodge of Elks of which I am a member, and emerging

from there I found him standing on the opposite side of the street, opposite the building. I took another car—that is a car at the corner of 10th Street and E, homeward. I took that car because it was close to the Elks Lodge Meeting Hall. I got off the car at the corner of Fourth and Elm, which is rather a lonesome road that late in the evening, and he followed me. I turned around upon him and demanded to know why he followed me; that I had noticed him for several days, and I told him I refused to allow him to follow

1017 me any further. He said he was not following me. I then recalled incidents of his following me and dogging my footsteps for several days and he admitted it. I recognized him and he recognized me as a member of a Masonic fraternity, not personally, but Masonically, and he then told me that he would desist thenceforth; that he was a detective of Mr. Van Cleave, and employed by him to dog my footsteps.

Q. Do you know his name? A. I do not, sir.

Q. Have you been followed on other occasions? A. Yes, sir, both before and after the incident to which I have just testified, but none of them were so pronounced as the one that I related where I was followed. There was another incident which transpired some months later and of another character.

Q. Have you been approached by any emissaries of Mr. Van Cleave? A. Yes, sir.

Q. I wish you would state when and where. A. Sometime in the summer of 1907 I was in New York. I had business in New York with the—well, I had business in New York. A man approached me as I was leaving the Victoria Hotel, addressing me by name. I remembered having seen him before some time, but could not then recall, when he reminded me that he had met me on several occasions, but that he had not taken a very active part at the gatherings to which he referred, particularly the one at one of the halls at

1018 Madison Square Garden in New York City upon the occasion of a Congress being held to consider the general subject of immigration, both general as well — Asiatic and its influence upon the American people and what ought to be done to regulate it, to petition Congress for its regulation in the one instance and its abolition in the other.

Mr. DAVENPORT: Mr. Ralston, may I inquire at this point what possible relevancy there is to this testimony?

Mr. RALSTON: In what respect?

Mr. DAVENPORT: The testimony that you are now offering. I suppose it is all subject to my objection and I give notice that I shall move to strike it out as utterly irrelevant, but would you, for the information of the Court, at this point indicate what possible bearing it can have upon the issues raised by the plaintiff in its petition and the returns thereto.

Mr. RALSTON: I think in view of the days I have spent listening to the cheerful sound of Mr. Davenport's voice reading articles having no possible relation to any of the issues in this case, that discussion of that point with Mr. Davenport at the present time would be utterly useless.

Mr. DAVENPORT: I merely ask the question, what pertinency do you claim that it has?

Mr. RALSTON: I think I will make my claim before the Court.

Mr. DAVENPORT: And will not make it now?

Mr. RALSTON: No.

Mr. DAVENPORT: Nor indicate now the point of view from which you regard this as in any way material or relevant?

019 Mr. RALSTON: I do not like to seem in the slightest degree discourteous, but I prefer reserving my answer and will discuss this matter later before the court.

The WITNESS: He stated that he was in a position—that he was friendly disposed toward me; that he thought Mr. Van Cleave and ought to come to some better understanding of each other's purpose, and that he was in such a position that he could bring about a meeting that would possibly establish better relations. I told him that inasmuch as it was the general purpose of our movement and it was particularly my purpose for which I was always working to reach understandings with employers, particularly when there were disagreements, that I should be glad to meet Mr. Van Cleave for that purpose if he could so arrange it. He told me his name was Brandenburg. I then recalled that he was in attendance at the Immigration Conference to which I have referred and that I had seen him before. There were a number of incidents after our parting transpired, such as his sending a note to me by the porter at the Victoria Hotel, asking me that I see him immediately and which I regretted I could not do and sent oral word to him to that effect, that I had to leave for Washington. He then wrote me and telegraphed me under that name and under an assumed name, which he afterwards acknowledged to be his and which the previous talk with him and notes from him also confirmed, that he wanted to meet me both in North Carolina where he stopped and in his transit from North Carolina to New York and after he had reached New

York; and we had some correspondence and finally agreed 1020 that we would meet upon a certain day in New York at the Victoria Hotel. I had business in New York subsequent to that correspondence and Mr. James Duncan and Mr. William G. Huber, Vice presidents of the American Federation of Labor, were the gentlemen with whom I had the business. We had a conference at the Victoria Hotel.

Mr. Brandenburg called me up over the telephone two or three times. I informed Mr. Duncan and Mr. Huber substantially and in much more detail what I have just now related, and told them that I suspected by the secretiveness and the assumption of an assumed name, that there was something suspicious about Mr. Brandenburg's conduct. I asked their advice as to what course I should pursue. They advised me to see him. I saw him, by arrangement, and he finally disclosed his purpose to me, saying that he had a kindly regard towards me; that he wanted to save me from the effort of Mr. Van Cleave to crush me, to destroy my character and my name and my standing before the American people; that it was the purpose of Mr. Van Cleave to destroy the character of every labor man promin-

ent before the public or in the labor movement, but he had persuaded Mr. Van Cleave that it were better not to destroy me; that for Mr. Van Cleave's purpose it were better that I be made an ally and to give the secrets of the American Federation of Labor and to give whatever information I possessed that would reflect detrimentally upon the organization of labor; that Mr. Van Cleave agreed to that suggestion of Mr. Brandenburg's for several reasons, one for

1021 the information I could give and the assistance I could render; secondly, that if this were made public—or rather that if

I were to leave the American Federation of Labor as its president, that Mr. Duncan who was First Vice President would in all probability succeed me as President, and that he was equally distasteful to Mr. Van Cleave and the National Association of Manufacturers, and he therefore would want me—he did not want me to be—did not want to interfere with my again becoming President of the American Federation of Labor at the then ensuing convention, but that thereafter or some months after I could resign, and that a new president would then have to be elected by the Executive Council. He wanted it understood that there would be a good lump sum of money in it, he did not say how much, but that Mr. Van Cleave would guarantee to me beyond question and have the guarantee under-written, that I would be cared for for my whole life; that I could lecture upon the platform and if the returns from those lectures in opposition to the labor movement did not yield me a sufficient return, say to the extent of five or six thousand dollars a year in addition to the lump sum, that he, Mr. Van Cleave had sufficient money to reimburse me for whatever would be less than the five or six thousand dollars a year. During that interview which lasted quite some time I said little or nothing other than to lead Mr. Brandenburg on to disclose all that he had in mind to say. I had not eaten anything since breakfast and this was about 9:30 or 10 o'clock in the evening, and my colleagues

who had been waiting for me—Mr. Duncan and Mr. Huber
1022 who has been waiting for me in the lobby of the hotel during this talk Mr. Brandenburg had with me, phoned up to my room impatiently that they were waiting to go out and get a meal. I asked them to defer it for about five minutes and it gave me the opportunity to impress upon Mr. Brandenburg the necessity of deferring or cutting this present conference short and if necessary to arrange for another meeting. Under the awful stress and suppressed indignation which I felt I did not care to continue the conference longer for fear that I might by word or action betray my feelings of resentment, and for the further desire that I wanted to convey the information I had to my colleagues. We arranged for another meeting the following morning and I then went downstairs to the lobby of the hotel and asked Mr. Duncan and Mr. Huber to come up to my room and I detailed—I recounted in detail to them the statements made and conversation and offers made by Mr. Brandenburg and asked their further advice. They advised me to keep the engagement the following morning which was done. Mr. Brandenburg came to me and repeated in almost the exact language the offers of the previous evening. I then told him that it was difficult for me to believe

that Mr. Van Cleave would offer me any such suggestions or propositions, and then I was not sure that he indeed represented the National Association of Manufacturers or Mr. Van Cleave, and I wanted some further proof. My purpose was to absolutely and conclusively have demonstrated whether Mr. Brandenburg did represent the National Association of Manufacturers and Mr. Van Cleave. He

said that he would try and phone and learn whether Mr. Van Cleave was in town; that he would let me know and if Mr.

Van Cleave was in town we would meet. He would bring about a meeting the following day. I told him that I would wait over for the following day if he could. However he said that he would bring me such proof in the afternoon, if I could arrange for a meeting, that would clear any doubt in my mind upon that aspect of the affair. We parted with the understanding that we were to again meet in the afternoon and that he would then give me the information. We met in the afternoon. I should say that I related this conference

and these incidents immediately after to Mr. Duncan and Mr. Huber and they advised me to continue meeting Mr. Brandenburg. I met him in the afternoon, he coming to my hotel. He objected to meeting me in my room because it was adjacent to another in which Mr. Huber and Mr. Duncan and myself held our business conferences, and he took me to a room in which he and I entered. Whether it was his own room or another that he had secured for the purpose I do not know. During the interview in that room he showed me checks and drafts and vouchers upon the official documents and the documents which I have named, bearing the name of the National Association of Manufacturers and the signature of Mr. Van Cleave, and orders and vouchers and checks and drafts and receipts made payable to Mr. Brandenburg. He said that Mr. Van Cleave was not in town, that he was on his way to St. Louis, and he could not be communicated with. I left him—or rather he told me that the American Industries would begin its exposure of labor men in its fol-

lowing issue and that the matter was already in type, but that it would make no reference to me provided I would agree to the terms which he proposed. He added that unless I did agree they had such facts as would destroy me, and that in the cases where they did not have facts as against me or the other representatives of labor of the country, there was no difficulty in manufacturing them; that I knew that they could easily do that and though damage suits and libel suits could be brought at any rate so far as my friends and my associates and myself were concerned, the ruinous injury would be accomplished before anything corrective of these false reports could be made. I left him and told him that I desired to consider the matter; that I did not reject it but I wanted him to continue under the belief that it was possible that such a thing could be done, but I could not promise; that I wanted to think the matter over. Of course I was just as determined then as I had been all my life and as I am now to endeavor to be true to myself and to my conscience and my fellows. I related all this to my colleagues of the Executive Council immediately after the close of this conference also. On that same night I left for Washington and upon reaching

here in the morning I proceeded to my office and called in Mr. Frank Morrison and a stenographer in whose integrity and reticence I had absolute confidence, and related the story completely to Mr. Morrison and asked the stenographer to take it down. The week following, the American Industries, the official magazine of the National Association of Manufacturers of which Mr. Van Cleave

President, published a tirade of abuse and attack upon me charging me with official malfeasance in office and with dishonesty; and this was generally published in the newspapers of the country, advance copies having been furnished by American Industries to the newspapers and news agencies of the country.

Mr. DAVENPORT: I want to move to strike out this matter interjected by Mr. Gompers on the interrogation of his counsel as not only immaterial and irrelevant, improper and impertinent, but as an attempt to inject into this testimony scandalous matter—

The WITNESS: (Interrupting.) As it was; that is what it was.

Mr. DAVENPORT: It is scandalous matter interjected into this record and I object to the same, and I give notice that I shall move the Court to strike it from the record.

The WITNESS: The animus of that proceeding and of these proceedings—scandalous, that is what it is. The animus of that proceeding and of this proceeding before the courts, that is what it is—it shows it.

1026 Mr. DAVENPORT: I want to give notice of a motion in reference to the testimony of Mr. Gompers to which I objected this morning on the ground of its being immaterial, irrelevant and not pertinent, as well as to that particular part of it which was scandalous, and I shall move to strike out the testimony and the exhibits thereto and to ask the Court to impose the costs upon the respondents. As to the statement of Mr. Gompers relative to an alleged attempt by or in behalf of Mr. Van Cleave to bribe him, as set forth in his testimony, I shall move to strike out the same as incompetent, immaterial, irrelevant and scandalous and a malicious abuse of the process and proceedings of the Court; and as bearing upon the motive and showing the malice of its introduction into this record, with which the same was introduced, I hereby direct the attention of the Court to the fact that in the trial of the case and the testimony offered upon the issues therein prior to the rendition of the decree for a permanent injunction the witness Gompers was offered as a witness in behalf of himself and other defendants in that case by the defendants and was examined at length in regard to all the issues of the case, as will be seen by reference to his testimony filed in Court in behalf of the defendants, to be found on pages 721 to 894, inclusive, of the original record in the case, and on pages 409 to 492, inclusive, of the transcript of record in the Court of Appeals of this District; and to the fact that though examined by his counsel and cross examined at length, he failed to make any statement whatever in regard to that matter, and

1027 that after having been thus examined and cross examined full opportunity was afforded him at the close of his testimony by his counsel to state his knowledge as to any other matter

of thing pertaining to the matters in issue; and to the fact that in the course of his deposition he stated that he had heard read the testimony given by Mr. Van Cleave in this case previous thereto; and to the deposition of J. W. Van Cleave, taken in this case for use on the trial of the issues of the case, to be found on pages 232 to 263, inclusive of the transcript of record of the case in the Court of Appeals in this District, and on pages 392 to 452, inclusive, of the original record; and to the fact that Mr. Van Cleave was interrogated by Mr. Ralston in behalf of the defendant Gompers and the other defendants in the case relative to the matter and testified in response to their inquiries that there was no foundation whatever for the story so far as he was concerned, but that it was made out of whole cloth, as will be seen by reference more particularly to the testimony on page 451 of the original record and on page 261 of the transcript of record in the Court of Appeals of this District.

Mr. SIDMONS: Counsel for the respondents protests and objects to the larger part of the foregoing motion upon the ground that it is purely argument of counsel and not at all essential to the proper record of his motion and does not conform to the practice in such cases and constitutes itself an abuse of the process of the Court and is a needless encumbering of the record, against which counsel again earnestly protests.

1028 Mr. RALSTON: Now, Mr. Davenport, I desire to suggest an adjournment at this time. Will it be agreeable to meet here at four o'clock? I have some engagements this afternoon that I desire very much to meet?

Mr. DAVENPORT: That is agreeable to me.

Thereupon at 12:30 o'clock p. m. a recess was taken until 4 o'clock p. m.

ALBERT HARPER, *Examiner.*

1029 WASHINGTON, D. C.,
THURSDAY, September 24, 1908.

Met pursuant to adjournment.

Present in behalf of the plaintiff: Mr. Davenport.

Present in behalf of the defendants: Mr. Siddons.

Whereupon FRANK MORRISON being recalled, further deposes and says:

By Mr. DAVENPORT:

Q. Mr. Morrison, have you ascertained the date of your return from Canada? A. Yes, sir; I have.

Q. What was that date? A. I left the office Saturday, December 21, 1907; I left the city for Canada Sunday evening, December 22; returned to Washington on January 1 and was at the office late in the afternoon of January 2 or the morning of January 3. That is as near as I can give it. I am inclined to think I was at the office late in the afternoon of January 2, but I have no absolute evidence to that effect.

Q. How is it that you locate the date of your return as the 1st of January? A. I remember of returning on the 1st with my daughter and arranging on the 2nd to get her to school.

Q. How is it that you locate the date as the 1st of January rather than the 31st of December? A. Well, I say I remember of returning New Year's Day.

1030 Q. Turning to the statement of account which you publish in the Federationist each month, the statement for the month of December—I notice under that date a large number of payments. A. Under date of—

Q. December 31st. A. Yes.

Q. The next previous entry is December 21, and then there is the hiatus down to December 31, and items aggregating several thousand dollars. A. Yes.

Q. Will not your check book show whether or not you did not draw them on that day? A. Well, no—that is, if I am absent. I close up my account and pay all bills and date them on the 31st.

Q. Then this statement here is not correct? A. Oh, yes; it is correct. The checks were drawn on the 31st but they were not signed.

Q. What independent fact is there that makes you think that you returned on the 1st rather than on the 31st? A. Well, there is no independent fact except that I remember that I returned on that day.

Q. What is it that makes you positive about that? A. I could not say what makes me positive. It is one of the things I happen to recall.

Q. You have stated heretofore, I think at one time in your testimony, that you came back on the 31st. A. No; I do not think the record will show that.

Mr. SIDDONS: I do not think he said that.

1031 A. (Continuing:) I think I said that I did not recall when I left or got back.

By Mr. DAVENPORT:

Q. Whatever you said will appear in the record. A. I looked up my check books and my copy books and the work that was accomplished, and discovered that it was either late on the second or on the third that I was here, because on the 3rd there was my signature on the letters which were copied and there was no signature of mine on any letters prior to that.

Q. Did you continue in the office according to your usual practice thereafter during the month of January, 1908? A. So far as I recollect I did. I may have been out of the office perhaps a matter of a few days, you know, and back again.

Q. I notice the dates of payment herewith run along on the 2nd, 3rd, 6th, 7th, 8th, 9th, 10th, 11th, 15th, 16th, 17th, 18th, 22nd, 23rd, 24th, 25th, 27th, 28th, 29th, 30th and 31st. I suppose you infer from that that you were here during that month, about the business, attending to the duties of your office? A. My recollection is that I was here mostly all the month. I may have been

out of the city for a day or two at a time, but I have no recollection now of being out.

Q. Now, it appears by the testimony of the Post Office representative who testified in this case that there were repeated mailings of the American Federationist during the month of January 1908, as appears by the records of that office. I will call to your attention what he says about that. He says that on the 4th of January there were 14 pounds mailed on the 9th there were 11 pounds mailed; on the 14th there were 8 pounds; on the 17th there were 15 pounds; and on the 24th there were 8 pounds. Then the regular issue came out. A. That is in January.

Q. Yes. Now, can you give us any information about those papers? A. No, I could not. I could not say what they were. I have no recollection about what was issued from the office other than when I came back I saw a number of copies of the January issue in the hall and when I was informed that the injunction was in force I ordered that they should not be sent out. On going past there later I saw them there and ordered that they should be taken downstairs and taken away so that they would not be sent out. We have now, I am informed, 1363 of that edition downstairs so that they could not be sent out.

Q. Can you give us any information about those that were sent out? A. Well, I find out—I have gone over—

Q. In the first place, have you anything definite as to the number of the issue, and so on? A. How do you mean—the number issued?

Q. The number printed? Q. The number that was printed was 7,500.

Q. I notice that the bill for that number was not paid during January but was paid in the month of February. Do you know how long the type was kept standing for that issue? A. No, I do not think it was kept standing at all. I have no recollection of any order.

Q. You do not know anything about that? A. No; I do not think it was kept standing.

Q. You say there were 6,000— A. 7,500.

Q. 7,500? A. Yes, sir; 7,500—the same number were printed for January, February, March, April and May.

Q. I notice that comparing the January bill with the bills for issues of similar size that it was somewhat larger—\$646 as against about \$500. A. The bill ought to have been the same for January as for February, having the same number of pages, seventy-six. We pay by the page.

Q. That brings us down to what I want to get at. The two bills were paid— A. (Interrupting.) They show separately, don't they?

Q. (Continuing:) —the same month; they were both paid in February. A. It may not have been that—does it say the American Federationist?

Q. They are both in here—one paid on the 12th. I have the

right number here; I can tell you in a minute (examining papers). The statement should be in the April number, for February. A. It ought to be in the February number.

Q. I have it now. On the 12th, printing January American Federationist, Law Reporter Company, \$646.42; and printing February American Federationist—that is under date of the 28th, \$546.81. That is a hundred dollars more. A. A hundred dollars more?

Q. Yes. The size of the two you say being about the same number of pages it ought to be the same. It would indicate that there were a larger number of the January issue. Can you tell whether that is so or not? A. I think I can get that bill. If the record is right, it may be a difference of extra time. It might be extra time in printing it; corrections and such things.

Q. I wanted to make sure I was right myself in the figures. (Reading:) "Printing January American Federationist, Law Reporter Company, \$646.42, and printing February American Federationist, on the 28th, \$546.81." A. A difference of ninety some dollars.

Q. A hundred exactly. Would that possibly be an error in figures? A. No, I think not. I think there may have been extra expenses in getting it out.

Q. Is it not possible from the fact that the January Federationist bill was not paid until the month of February that the type was left standing and that extra copies were printed from it? A. No; oh, no. There are no extra copies. There were 7,500 copies printed; there is no question about that—that was all the copies printed. Any difference in expense was caused by corrections, or over time, or something connected with getting it out, such as extra time.

1035 Q. It appears from the statement of the post office superintendent that it was issued on the 22nd, it being Sunday. A. Yes.

Q. And possibly in the hurry to get it out they worked nights, and did some Sunday work—that would account for the extra cost. A. There may have been extra time; yes.

Q. I wish you would proceed to give me what information you can about that. A. I have not looked up the amount but the record shows 7,500 copies printed.

Q. That is received, delivered? A. Delivered; yes, sir.

Q. By the printer? A. Ordered and paid for.

Q. And delivered? A. Yes, sir.

Q. Received by the persons for whom they were printed? Q. They were ordered and evidently have been received.

Q. How do you ascertain that number? A. Well, that is the bill. It is copied from the bill by the man downstairs.

Q. When is the bill dated? A. I do not know. They send in bills at different times. The Law Reporter Company is slow sometimes; and we have to send over always.

Q. Do you think the bill was rendered about the time it was

036 paid, the 12th of February? A. I do not know. We have very often to send over to the Law Reporter Company and get the bills in.

Q. I know "often;" but we are now talking about this specific thing. The question that I would like to know, if you can inform me, is whether or not the bill was rendered and paid on February 2, and whether there is anything in the bill that would indicate when it was printed and completed ready for delivery to you? A. No; there was nothing in the bill to show that. It just simply shows 500.

Q. Have you any other data by which those facts can be ascertained? A. No; there is no data except the bills.

Q. Don't you have any accounts or any books that show the date of the receipt of those things? A. No; we pay the bills as soon as they are received, or about the 15th of the month.

Q. I mean the articles themselves that you purchase. Don't you have books of account that would show that? A. Not of the Federationist because they come in and we send out our subscription lists, and whatever is left over we ship as sample copies.

Q. Now, Mr. Morrison, do the bills show that you had the same number for the January issue as you did for the December issue or the February issue? A. Yes, sir; they will show what number we had. I got January and February, from that down.

Q. They were in both instances 7500? A. January and February were; yes, sir.

037 Q. What do your books show as to the disposition of those copies? A. I take it they were sent out to our affiliated local unions—

Q. What I am concerned about is to get the truth and the facts only about the delivery of these things. It appears that 1700 pounds were mailed on the 22nd at publishers' rates, and it weighs just a little short of half a pound, so that there would be possibly 3400 or 3500 copies mailed that day at publishers' rates. That accounts for about 3500 of the 7500 issue. What data can you give us as to the mailing of the others? A. Well, they were sent out to our lists consisting of our secretaries, the labor press, organizers—

Q. I am more solicitous about learning when they were sent so far as the records show. I have here for the month of December, under date of the 31st, postage on American Federationist, Post Office Department, \$25.97, which the post office records show was deposited by the Federation on the 4th of January to keep up the deposit which you keep there. A. We keep it there all the time.

Q. And those records also show that there was no mailing of the Federationist from the 22nd until the 31st. What other copies were sent out through the post office at publishers' rates of that issue? A. I do not know of any. I do not know of any myself that were sent out of that issue.

Q. These several mailings in January were at publishers' rates; they do not show anything about those that went out under
1038 ordinary postage? A. No. I do not know of the methods there at all. There are calls made for different Federationists and they are sent out—sometimes back numbers.

Q. Anything that went out before the 24th of January would have been of a former issue, either the January issue or a previous issue of the Federationist? A. Anything that went out before when?

Q. The 24th of January. A. Well, before the 22nd or 23rd—

Q. He states the 24th was a new issue. A. Oh, you are speaking now of the February issue?

Q. No; I am speaking now of the mailings in January, prior to the 24th of January, when he says a new issue was mailed. A. Prior to that they might have been Federationists of any time back, because we have 200 of each issue.

Q. Anything back to the month of May, 1907, would contain the "We Don't Patronize" list. What I am trying to get from you is what data you have by which they can be ascertained. A. We have none except those copies that we have a record of that went out. We have a record of some thirty or so.

Q. What do your records show was done with the 7500 copies? You say there are 1300 left. A. 1363.

Q. That would reduce the number to 2637. A. The reason they were not sent out was on account of the order.

1039 Q. What do your records show as to the balance? A. Those not sent to our lists went to the News Company.

Q. What news company? A. The Washington News Company I think is the name.

Q. How many do your records show they received? A. I have not looked up the records on that. I suppose there were between 500 and 1,000.

Q. That they received? A. Yes, sir.

Q. Do the records show when they received them? A. No. Their records would.

Q. But does yours? A. The usual practice is to send to them first. The first thing that goes, goes to the News Company.

Q. This was a Sunday transaction. They probably do not run business on Sunday, do they? A. That I do not know.

Q. Have you any records? A. I have no record at all.

Q. Do your records, accounts or books show when those numbers were delivered to the Washington News Company? A. No.

Q. Or what number was delivered to them? A. I think the records will show the number.

Q. Does it show dates? A. It would show the fact that they were delivered.

1040 Q. Do they order from time to time? A. Yes, sir.

Q. What times? A. We have a record. There were some sent to the New England News Company.

Q. What is that? A. Well, I do not know. Some company sent for some copies. The Chapin News Company—

Q. (Interrupting.) When? A. The record shows that on December 30 the New England News Company received 10 January Federationists. On March 14 the Chapin News Company got one; on the 21st the American News Company got one; on January 2, A. G. Benedict—

Q. U. G. Benedict? A. On January 2 U. G. Benedict got two.

Q. U. G. Benedict got his on the 30th of December. A. Our records show January 2.

Q. Because he testified on the 2nd. A. As I say our records show January 2nd.

Q. I do not know what the exact date was. Q. The record we have shows cash received ten cents. Brentano, on July 13, received a bound volume of the Federationist for 1907. I do not know that that bound volume runs up—whether that stops at May or not.

Mr. GOMPERS: The bound volumes have stopped at January of each year for many years. They close with December of each year.

By Mr. DAVENPORT:

Q. What does your record show about the Washington News Company? A. There is no record that the Washington News Company received—this is the record of copies of any orders in which there was any January Federationists sent out after the 23rd. There is no record of the Washington News Company receiving any after the 23rd.

Q. Of December? A. Yes. I have not any record here at all. I do not believe, as I say, that there is any record.

Q. Do you think their records would disclose when they got them? A. Yes, sir.

Q. How many copies do you account for from your records as disposed of? A. Well, of single copies that went out for instance, I will just read them off a list I have so that you will get it straight.

January 2, Ed. H. Heilman, St. Louis, Mo., 1 January Federationist.

R. P. Pettipiece, Vancouver, British Columbia, December and January Federationist.

Q. What is the date? A. The 9th.

Q. Of January? A. Yes, sir. Dr. U. M. Weidman, South Manchester, Conn., December and January Federationist.

Q. One of each? A. Yes, sir. January 23, W. B. Paterson, Brooklyn, N. Y., 1 January Federationist.

Q. H. C. Rogers, Chicago Daily News, 1 January Federationist.

1042 January 30, William Delahunty, New York City, 1 January Federationist.

February 4, W. H. Haskins, Coshocton, Ohio, 1 January Federationist.

February 8, William H. Guild & Company, Boston, Mass., January and February Federationist, 1 each.

February 18, Samuel H. Ranch, Grand Rapids, Mich., 1 each of January and February Federationist.

March 3, Cleveland (Ohio), Public Library, 1 each of January, February and March Federationist.

March 6, S. E. Farquhar, Earlham, Ind., 1 January Federationist.

March 6, Henry Strieller, Buffalo, N. Y., 1 each of January, February and March Federationist.

March 7, Cleveland (Ohio) Public Library, 1 January Federationist.

March 28, Henry Carless, attorney at law, Newark, N. J., 1 January Federationist.

April 1, John H. Dorney, Florence, N. J., 1 each of January, February, March and April Federationist.

April 4, William Crites, Wilmington College, Wilmington, Ohio, 1 January Federationist.

April 8, Statistical Central Bureau, La Haye, Netherland, 1 each of January, March and April Federationist.

April 23, Musee Social, Paris, France, 1 January and February Federationist.

June 9, J. A. Holder, Chicago, Ill., 1 each January and February Federationist.

1043 June 9, Charles Buche, Chicago, Ill., 1 each January and February Federationist.

July 10, Frank W. Cotterill, Seattle, Wash., January and February Federationist.

January 2—

Q. Back to January again? A. Yes. Dr. E. M. Orr, Hot Springs, Ark., 1 each of December, January and February Federationist and Norfolk Proceedings.

January 27, J. W. Heatherby, Saluda, N. C., January Federationist.

I have given you Benedict, and the News Company,—about 35 altogether since the 23rd.

Q. How many does that total since the 23rd? I figure there are 23 in the list you have just read. A. In addition to the 23, there are the two to Benedict, 10 to the New England News Company and 1 each to the Chapin and the American news companies, that would be 14—that makes 37 altogether.

Q. That seems to account for 4900—3500 sent to the post office by weight, 1363 in the basement, and these 37 just accounted for. A. I suppose others went under cent postage.

Q. Have you a record of the mailing list? A. Yes, sir.

Q. How many are there on that? A. Our full mailing list and what we send to the News Company takes up the 7500 with
1044 the exception of 400 which we keep, 200 for filing and 200 for copies, and I should also add with the exception of about 300 which we usually mail out as sample copies.

Q. Those mailed on Sunday the 22nd, and mailed at publishers' rates, went to whom, your subscribers? A. I take it that they were mailed to subscribers, to the secretaries of our local unions and our organizers.

Q. Is that about the usual number, 3500? A. I do not know about that.

Q. They go to what unions? A. To our affiliated unions, directly affiliated unions, central bodies and State bodies.

Q. They went to those. Whoever is upon your mailing list received them at pound rates? A. Yes, with the exception of Congressmen and Senators.

Q. Well, the people here in the city. A. And the people here in the city.

Q. Have you any way of telling how many there were of those? A. I have not just now. It would be pretty difficult. You can take the Congressmen and add them up and the Senators and add them up; there is no difficulty in doing that. I think that about exhausts it all.

Q. What number of copies does your record show were disposed of—all but the 1300? A. All but 1763.

Q. You say you have 1300 down there. A. 1363; yes, sir.

Q. Does that include the 400? A. No.

1045 Q. What are they—those 400 you have there? A. Two hundred are for binding—

Q. (Interrupting.) I know. Then you have how many on hand? A. 1763.

Q. Still on hand? A. Yes, sir.

Q. So that there was the difference between 7500 and 1763 disposed of? A. Yes, sir.

Q. Now, of those disposed of, of what have you a record? A. The record, as far as I can find out is that they were all sent out but 1763, and the only record we have of single copies going out after the 23rd is those I named.

Q. And your record does not show when they were sent out? A. I gave the dates.

Q. No. I mean these others. A. There is no record except the record at the post office. We do not keep a record of when we send our mail out from the office. We did not expect this suit and therefore did not find it necessary.

Q. What do your records show as to the disposition of the proceedings of the convention? A. I find on looking up our records, closing out our accounts, we had 9,000 printed, instead of 7,000, as

1046 I stated. The cause of printing 9,000 was this: We printed 7,000 of the Minneapolis convention, which were not enough and we had to have a reprint of a thousand, so I decided that it was better to print 9,000, so that we would not be short. Of the 8,000 we printed of the Minneapolis proceedings we have on hand 347. We have on hand now 3,000 of the 9,000 printed of the Norfolk proceedings.

Q. So that 6,000 went out? A. 6,000 went out; yes, sir.

Q. When were they received from the printer? A. As I understand it, the first shipment was December 31st.

Q. How many? A. I do not know. I might say we should have had these proceedings in the hands of our people about the 15th to the 20th of December, but our printer at Norfolk, for some reason which I do not understand, almost absolutely refused to get out his part of the work, and thus the issue was much later than usual.

Q. I notice in the statement of your account that from time to time over quite a long period, there are payments on account of proceedings. Were they paid as installments were received of the issue? A. No. You mean at Norfolk?

Q. No. The printing of the proceedings of the Norfolk conven-

tion. A. They were daily proceedings. We gave him checks on account.

Q. And not when the printer completed the complete
1047 pamphlet? A. No. We may have given him \$500 on account after he made delivery.

Q. It appears in the accounts here that payments were made from time to time for printing those proceedings. It would appear that they were delivered as long as they were paid for? A. Yes.

Q. You did not pay him in advance? A. No.

Q. You paid the printer as you received them? A. Yes.

Q. I took the trouble, Mr. Morrison, to weigh that volume, and I found that it weighed a pound. A. That is, the proceedings?

Q. Yes. A. I think it costs eight cents to send it.

Q. So that there were 9,000 pounds, about. Won't your accounts as to postage stamps show or indicate when you sent them out? A. They were all sent out after December 31st.

Q. Oh, yes, that is true; necessarily that must be. But what I had in mind was to ascertain, if possible, on what dates they were sent out. A. We got them out just as rapidly as we could.

Q. That is not the point. The question is, here you had these four tons and a half of material stored up here—I suppose they were delivered here—and as you had an opportunity to get rid of them you did; and what I want to find out from you, if I can, is the
1048 dates when they were sent out. It occurred to me, from an examination of the accounts published in the monthly statement you furnish—which, by the way, I may remark is an admirable thing for many reasons. A. Which? The way the thing is kept?

Q. Yes—sometimes an inconvenience, but nevertheless it is an admirable way of showing to those who want to know, just what has been done with the money of the Federation. A. That is what we do it for.

Q. Now, to sum it all up—— A. (Interrupting.) I will sum it all up this way. The record shows there were no more proceedings sent out this year than there was last year; that we were a little late in sending them out on account of the printer, but we sent them out just as rapidly as we could get them from the printer to our secretaries, local unions, to our organizers and internationals.

Q. Down to what time? A. I do not know, but I should judge that they would be all out surely during the month of January.

Q. They were all received in January, were they? A. Oh, yes; they must have been.

Q. There has been introduced in the record of this testimony a letter addressed by you to the editor of the United Garment Workers' Bulletin, under date of November 30, 1907, requesting him to get as many orders for these proceedings as he could and forward them to you promptly. Was that sent out to all—— A. (Interrupting.) That is the usual custom.

Q. How are they generally sent out? A. To our affiliated
1049 organizations.

Q. What are they? A. Nationals, city centrals and local unions.

Q. And to the labor press? A. Oh, no.

Q. This is addressed to the editor of the Bulletin? A. It may have got to him, but the order is to send it to our affiliated unions. We never ask the labor press to act as agents. At least I do not recollect of ever going to the labor press. I never recollect of giving an order to send that notice to the labor press that they were ready. It might possibly have gone.

Q. Who physically handles those things? A. I do not know who does that. There are different people. The order is given to some one of our boys to run off our lists, and these lists were all ready, I suppose, about December 10, waiting for the proceedings, which did not come until the 31st. They are run off ahead.

Q. I notice in the statement of expenses the ordering of certain Manila envelopes of a certain size which would take about that sort of a volume. Can we assume that the date of that ordering would precede the addressing? A. No. We make arrangements to try and keep 20,000 to 50,000 Federationist envelopes on hand, envelopes large enough in which to mail the proceedings and any other matters.

Q. But the proceedings would take a larger envelope. A. We use that envelope though.

Q. For both. A. No; for general literature. If they run out we order 25,000 more, from 25,000 to 50,000 lots, so that we always have them on hand.

Q. What about the bound volumes for the year 1907? A. Of which, the proceedings?

Q. No; the Federationist. A. There is just one volume that I have a record of as having gone out.

Q. It went to Brentano, did you say? A. Yes, sir.

Q. Under what date? A. July 13.

Q. You had them on sale? A. Yes, sir; we have them on sale.

Mr. SIDMONS: Are you speaking now of the Federationist?

Mr. DAVENPORT: The bound volumes of the Federationist spoken of in these contempt proceedings.

By Mr. DAVENPORT:

Q. Of the unbound numbers of the issues from May, 1907, down to and including December, what disposition was made of them during the months following the 23rd of December? A. As you see, different numbers have been sent out, and I have given you the list. There may have been a few others which did not appear, but a very few I guess, if any.

Q. What other subject was there I asked you about? A. You asked me about the verification of the members present——

Q. Before we take up that there is a question I want to ask you. Are you acquainted with J. H. Mahoney, of Detroit, who was a delegate to the convention at Norfolk from, I guess, the Central Labor Union, of Detroit. He was a member of the Committee on Boycotts. A. No, I can not say I was acquainted with him.

Q. Do you know of what union he is a member? A. I think per-

haps we can find out if you will give me that book there. (Witness is handed book.) Is it J. H. Mahoney?

Q. Yes. A. I think you are wrong on that.

Q. No. A. Was it the Detroit central body?

Q. Yes. A. (After examining book.) No, I can not tell. He does not represent one organization; he represents all.

Q. I did not know whether you had any acquaintance with him? A. No.

Q. You do not recollect him personally? A. No; I do not recollect him personally.

Q. Before I leave this subject of the January issue of the Federationist, you have spoken of sample copies of the January Federationist that were sent out. A. If anything is left over we send them out as sample copies. I had ordered the January number sent out that way, and then told them not to send them out on account of the order of the Court.

Q. Now, go on with the other matter. A. On January 20 I find all members present some part of the time with the exception
1052 of John Mitchell. He is marked absent.

Mr. SIDMONS: What date is that.

The WITNESS: On January 20, in the morning, Mitchell, Hayes and Keefe were absent. In the Convention session Mitchell, Hayes and Keefe were absent.

Mr. SIDMONS: Are you referring to some meeting of the Executive Council?

The WITNESS: To the members who were absent on Monday, January 20. The absent members were Mitchell, Hayes and Keefe.

Mr. SIDMONS: From the meeting of the Executive Council?

The WITNESS: Yes.

By Mr. DAVENPORT:

Q. I inquire of you whether or not at this meeting of the Executive Council the following gentlemen were not present at some time, Messrs. Gompers, Duncan, O'Connell, Morris, Huber, Valentine, Lennon and Morrison? A. Yes, sir.

Q. All but Messrs. Mitchell, Hayes and Keefe? A. Yes, sir.

Q. Is that the only topic I asked you to look up? A. That is the only thing except that circular, which Mr. Gompers answered—25,000, November 26 circular. You have that in evidence now.

Q. Do you remember a circular which has been testified to by Mr. Gompers relative to the American Federationist? A. I do not know what you mean? I do not know what particular circular you refer to?

1053 Q. Booming the Federationist. A. Booming it? I do not know.

Q. You do not recall anything about it now? A. That is such a small detail in the office that the only one who would know would be the man who dictated it, if he remembered it at all.

Q. You do not remember how many thousand were sent out? A. No, I do not recollect. The books will show, of course. I do not imagine anything abnormal in number went out.

Q. I do not speak of that. You know there was one sent out, don't you? A. Well, I do not know that there was one, no. I do not recall that there was one sent out, but if there was one submitted it is in the evidence, and if testified to by Mr. Gompers of course there is no question about it.

Q. I think that covers all matters that I was to take up with you, does it not? A. I think so.

Mr. SIDDONS: As far as I recall Mr. Morrison made a memorandum to try to meet your wishes.

Thereupon the hearing was adjourned to meet at 10 o'clock a. m. tomorrow, Friday, September 25, 1908.

ALBERT HARPER, *Examiner*.

1054

WASHINGTON, D. C.,
FRIDAY, September 25, 1908.

Met pursuant to adjournment, at 10.00 o'clock a. m., in the Typographical Temple, Washington, D. C.

Present: Daniel Davenport, Esquire, in behalf of the petitioners.

Present: Jackson H. Ralston, Esquire, in behalf of the respondents.

Also present: Samuel Gompers, one of the defendants.

Whereupon SAMUEL GOMPERS resumed the stand for further examination.

By Mr. RALSTON:

Q. Before we adjourned your examination yesterday, you spoke of your interviews with Mr. Broughton Brandenburg. What name did he go under when he communicated with you? A. Edgfield.

Q. Did Mr. Brandenburg devise an article of apostacy to be published under your name? A. Yes sir. He said that he was sent out to the southwest, somewhere in Arkansas, where in 1895 I was taken ill with acute gastritis, and he had heard that there was some statement which I then made believing that I was about to die; that he failed to discover any such document; that he therefore drafted the document which he read to me, and which he stated he could finish and date back to 1895 and I could sign it; that he could easily

1055 secure old paper, to give it the appearance of age. He read it to me, as I say, and I asked him to permit me to look at it. He handed it to me. After some hesitancy, I told him that of course I could not undertake to sign any such thing, particularly in its unfinished shape, and that the document at any rate would have to be completed before I could give any positive affirmative answer. He said that the document was in the nature of a Thanatopsis. I asked him if I might have a chance to think it over and have it in my possession that night.

Mr. DAVENPORT: Mr. Ralston, it is understood that this goes in subject to my objection and subject to my motion to strike out, for the various reasons given.

Mr. RALSTON: Surely.

Mr. DAVENPORT: So as not to be encumbering the record with a repetition of the same thing.

Mr. GOMPERS: This has not been referred to at all this morning.

Mr. DAVENPORT: Well, this Brandenburg interview, is the same topic that you were on yesterday.

Mr. GOMPERS: But this had not entered in my mind at all.

Mr. DAVENPORT: Very well, let it be understood that it goes in subject to my objection, and under my motion to strike out, for the various reasons given, and to put costs upon the other side.

A. (Continuing:) When Mr. Brandenburg placed this document in my hands I made up my mind he would never get it from me, that I would try to hold it, if I could with his consent; but I would have held it even if I had lost my life in the attempt to hold

1056 it. He consented to my retaining it until the following day.

I did retain it. He referred to it. I had it with me so that he might see that I had not put it in any other safe place, but that I had it. I asked for further time. Shall I read it?

Mr. RALSTON: Yes, I offer it in evidence, and ask that it be read into the record, or a copy certified by the Examiner. I do not want to file the paper itself.

(The paper referred to was accordingly filed as a part of the record, and a copy thereof is also filed, marked "Exhibit A. II. No. 42.")

The WITNESS: I will say that immediately after that interview closed that Mr. Brandenburg, when he handed me this paper, I immediately sought Mr. Duncan, Vice-President of The American Federation of Labor, and asked him to go with me immediately to the clerk's desk, and without seeing the document at all I asked him to attach his initials, and the date, and he did so. (Reading from paper referred to:)

"J. D., Oct. 26, '07."

The document reads:

"So by devious ways I have come in view of the end of the period. Not far away is the final cessation of somethings mortal, that I know, but the mystery of the sustention of other things immortal must yet be made clear. Soon I shall stand where I shall see with un-blinded eyes and to that point must come every one no matter by what path, and the realization of that fact palliates the bitterness with which I should contemplate my own course, were it not true.

1057 "For I have struggled with the humblest on a plane of equality and I have walked and talked with the mighty ones of the earth and have lent them my power. The poor cigarmaker's apprentice has lived to become the master of a million minds, and lived a little longer be what he is today—not even master of himself.

"There is nothing of the whine in this. Emptied, broken as I am I have nothing to ask. Nothing I might achieve would matter in a little while and this that I write is after all nothing more than my retrospective thoughts expressed through the accustomed medium of my pen. Wisdom is cumulative and out of my abun-

dance I might endow posterity. Vengeance by the law of compensation over reaches the grave and I might undo more men a score of times than will regret my passing. Justice is exquisitely elusive and I might with a truth told here and there palliate many a grave miscarriage. But why? Why should I have driven on to my own aims leave my now disabled chariot to retrace the hippodrome.

"Each man in his way, be it great or small, exists in an attitude toward the world at large, in a second attitude toward this immediate associates and in a third and almost invariably different, very different attitude before his own inner consciousness. Stripped of the sophistries that serve as mental lubricants when in activity, I stand at halt contemplating my ego.

"I see lust of power that has triumphed and exulted again and again."

1058 By Mr. RALSTON:

Q. What were you asked to do with that production? A. After the document was completed, to sign it and to date it in 1895.

Q. When did these conversations occur? A. In the fall of 1907, and by the notation of Mr. Duncan's initials on it, made that night, and the date also on it, I know that it was on October 28, 1907, at the Victoria Hotel, New York City.

Q. Without going through all your correspondence with Mr. Brandenburg, I will ask you if you can identify that letter? A. Yes sir, the envelope is with it.

Q. Do you identify that letter? A. Yes sir. It was received by me, handed to me by the porter of the Victoria Hotel, and it is addressed to me.

Q. The letter I refer to, which I have showed you and which you have identified, reads as follows:

"MY DEAR MR. GOMPERS: Finding that you arrived at about ten this morning, and since I have heard nothing from you, I can but conclude that you did not receive my letter asking you to call me on your arrival. My house is 71 Irving Place, my telephone is 1978 Grammercy.

(Signed)

EDGEFIELD. 3:45 p. m.

"P. S.—I will call you up again at five, again at six, again at seven, etc."

Now, you received various other letters from him at different times? A. Yes sir.

1059 Q. Some signed Edgefield, and some signed B. B.? A.

Yes sir; and in my answers to him I always addressed him as Mr. Brandenburg, and his letters and telegrams or notes, even though they were signed B. B. or Edgefield, were then in response to the letters of mine addressed to him as Brandenburg.

(NOTE.—The letter referred to above read by Mr. Ralston, was filed in evidence and a certified copy thereof is also filed, marked "Exhibit A. 11. No. 43.")

By Mr. RALSTON:

Q. How many of these so-called or subsidiary national organizations are there at the present time engaged in a common attempt to destroy trade unions in this country? A. There is the National Association of Manufacturers——

Q. And who is president of that Association? A. Mr. Van Cleave; there is the Anti-Boycott Association, of which Mr. Davenport is——

Q. The whole thing? A. That is generally believed. He will not tell anybody else other than Mr. Beck, his stenographer and office boy; he won't give us any other information upon that subject.

Q. Mr. Davenport, the lawyer in this case? A. Yes sir, the attorney for the Buck's Stove and Range Company in these contempt proceedings.

Q. What other associations? A. The Anti-Boycott Association; the Citizens' Alliance, of which Mr. Post is president. Mr. Post is the manufacturer of Postum Cereals, and other things.

1060 Q. And who is the first vice president of that? A. Mr. Van Cleave is the first vice-president of that organization, the organization of which Mr. Post is president.

Q. You have, perhaps, in the exhibit put in yesterday, noted that whenever a case has gone adversely to the trades unions, Mr. Davenport and Mr. Beck, counsel for the Anti-Boycott Association, have announced that fact and sent out a begging letter, have you not? A. One has generally followed the other.

Q. So what do you anticipate in the event that you are to be adjudged in contempt? A. I think it will bring in some return to the coffers of the Anti-Boycott Association. They will show another victory for Mr. Van Cleave and the Anti-Boycott Association.

Q. Do you know why this proceeding was delayed until after the adjournment of the Democratic National Convention, although the principal events complained of occurred last January? In other words, do you believe that there was a political design in it? A. It was so said. It is mere hearsay, anything I can answer would be hearsay, but that is my own judgment.

Q. Since the contempt order was made returnable, have you attempted and have you instructed your attorneys to attempt to get as speedy a hearing as possible, and to admit every fact which was true and set out in the petition in the contempt proceedings? A. My requests to you and Mr. Siddons, your law partner and our attorney also, and to Judge Parker, have been to bring this case to a
1061 speedy conclusion, as speedy as possible, and that I was willing to forego any other thing, any other of my duties, in order to be helpful to bring this case to a speedy conclusion, and I have admitted all things which are charged or alleged, and which are true, and I have been willing and am willing now to admit any other material facts which may be true which can in any way bring these proceedings to a speedy conclusion.

Q. Has that disposition on your part been met with a similar disposition on the part of the petitioner and its attorneys? A.

Decidedly no, other than their willingness to work while the hearings are going on; in that way the attorneys have manifested a disposition to carry on the hearings, since the petition.

Q. I wish you would state whether anything has evidenced itself in the course of this examination tending to show that the purpose of the examination was not to convict for contempt, but to obtain a basis for future actions against trade unions? A. Every indication of these proceedings seemed to me to throw out a drag net to obtain some basis for future litigation, law suits, and to keep the officers of the American labor movement first in constant litigation, which neither their private means, nor their opportunities of obtaining money can afford, either in their own departments or expenses in printing and appeals, in retaining competent counsel. The disposition is evidenced by reason of the fact that we are workmen and

1062 represent workmen, and hence the poor men of the country, who are less capable of bearing the financial strain, we may reach a point when, unless counsel will volunteer their services to their great financial and business detriment, we shall be compelled to discontinue having counsel and just simply place ourselves at the tender mercies of Mr. Van Cleave's National Association of Manufacturers, Mr. Davenport's Anti-Boycott Association, and Mr. Post's so-called Citizens' Alliance.

Q. You have spoken of Mr. Van Cleave as representing the Buck's Stove and Range Company, president of the Manufacturers' Association and controller of Congressional legislation and of the platforms of political parties, as being also the vice-president (I so denominate him because he says that of himself), of the Citizens' Industrial Association of America. What are the purposes of that Association?

MR. DAVENPORT: This all goes in subject to our objection and under our motion to strike out and that the costs be put upon the defendants.

MR. RALSTON: Certainly.

A. The destruction of the labor organizations, and to defeat every effort which they may make to protect the workmen from worse conditions, reductions in wages, longer hours of employments and so forth, to break strikes.

Q. Have you here a circular of the Citizens' Industrial Association? A. Yes sir, signed by Mr. D. M. Parry, President, who was the immediate predecessor of Mr. Van Cleave as President of the National Association of Manufacturers.

1063 MR. RALSTON: I would like to offer this in evidence.

(The paper referred to was accordingly marked "A. H. No. 44.")

Q. I notice this says, "A subscription to this fund is really the same as an insurance against future trouble at the hands of the socialist and demagogue."

"Names of subscribers will be kept confidential when desired."

What do you understand by that term, "insurance against future

trouble?" A. To furnish strike breakers in the event of a lockout or strike; to furnish spies upon unions and upon men.

Q. Is that sort of business being carried on in this country? A. It is, quite extensively, sir.

Q. State what the paper is that I hand to you now? A. This is a circular letter sent out by Frank G. Curry's Secret Service Agency of St. Louis.

Q. Will you read it? A. It reads as follows:

"Business Transacted in Any Part of the World.

FRANK G. CURRY'S SECRET SERVICE AGENCY,

Benoist Building, N. E. Cor. Ninth and Pine Streets, Room 303.

Services confidentially handled by experienced operators.
Phones: Kinloch A-698, Bell Main-823.

ST. LOUIS, Mo., U. S. A.,

1064

October 2nd, 1905.

"DEAR SIR: Having served Employers for the past twelve years during Strikes, Lockouts, and all work connected with Labor troubles I wish to solicit your patronage.

"I furnish Strike Breakers of all trades, men who fear nothing and who will do your work regardless of Unions or Pickets. I also furnish Guards who will protect from violence your Employés who wish to remain at work during trouble and your property. I furnish experienced Secret Service Operatives who will go to work with your men and join Union if necessary to get whatever information you desire, also find out the feeling of your Employés toward you, their ways & habits, which will enable you to weed out the agitators and trouble makers.

"I make handling Strikes a specialty and no doubt you have read of Frank Curry the Strike Breaker who handled the great Chicago Teamsters Strike. My rates are very reasonable, I guarantee good service, and I always accompany and lead my men personally.

"Hoping to hear from you whenever you need services.

"I remain, yours very truly,

"F. G. CURRY, *Manager*.

"I can furnish you with all the Electrical Workers you need at very good rates.

"F. G. C."

1065 (The paper referred to, as above recorded, was filed as an exhibit, and marked "Exhibit A. II. No. 45.")

By Mr. RALSTON:

Q. I now hand you another paper, and ask you what it is. A. (After examination). This is headed "The Bergoff Detective Bureau."

Q. Please read that. A. This reads as follows:

"P. L. Bergoff, Manager.

L. C. Bergoff, Supt.

"Telephone, 4414 Bryant.

"THE BERGOFF DETECTIVE BUREAU.

"Civil and Criminal Investigations.

"Male and female operators sent to all parts of the world.

"Shadowing, Locating, Investigating and Serving Legal Papers.

"1531 BROADWAY, ROOMS 203, 204, 205, 206.

"Case No. —.

NEW YORK, — — —, 190—.

"DEAR SIR: This office is in a position to furnish your company with thoroughly experienced motormen, conductors, power house men, and in fact all classes of labor which is required to run a Street Railway Co. during the time of a strike. This bureau has made a specialty of handling strikes for over half a century and our clients are among the largest corporations in the world. During the recent trouble between the steamboat companies and the striking longshoremen in New York City, this office transported over 100,000 men for the different steamboat companies and supplied 1,000 guards.

"We also furnish men who work on the inside, that is for a man to work in your employ as a motorman or conductor, join the union and obtain all the information he can about his fellow employees. This information is submitted to your company daily in the form of a typewritten report. Our charges for guards, motormen, conductors, and all classes of men during the time of trouble is \$5.00 per day, your company to pay transportation, board and lodge the men.

"Trusting that you will at least favor us with a reply, we are,

"Respectfully yours,

BERGOFF DETECTIVE BUREAU."

(A stamp.)

Mr. RALSTON: I ask that this be marked as an exhibit.

(The paper referred to was accordingly filed and marked as an exhibit, being "Exhibit A. II. No. 46.")

By Mr. RALSTON:

Q. Without asking you to read it, I will ask you to identify the paper that I now hand you (handing witness a paper). A. (After examination.) This is a letter by Waddell & Mahon, Special Agents, and then under that, "Always on duty," printed in red ink, or, as Mr. Davenport would say, in blood colored ink.

1067 Mr. RALSTON: I will offer this in evidence, or a copy of it, and ask that it be marked "Exhibit No. 47." I will produce the original if desired.

(The paper referred to was accordingly filed as an exhibit, and a certified copy thereof is also filed as an exhibit, marked "A. II. No. 47.")

By Mr. RALSTON:

Q. I notice in this the following statement occurs:

"In the past two years we have broken over two hundred strikes and in every instance instituted the open shop, and if you wish an open shop, we can declare it for you, and have you maintain it, but our experience with the brewers leads us to believe that the time is not ripe for that move. Therefore we say to you that we can do the same for you that we did for the Lackawanna County Brewers' Association provided your employes make demands upon you that you do not wish to grant:

"Enclosed we hand you a list of references from concerns that were confronted by labor troubles which we terminated for them to their satisfaction in a length of time that conditions would hardly warrant."

Also this:

"We wish to say that if your employes make demands upon your company that you do not wish to grant, and at the same time wish to maintain a union ship, we can furnish you all the men necessary to take the strikers' places and keep your breweries in active operation, which means your output up to the normal upon very short notice."

1068 In what manner could union demands be rejected and at the same time your shop kept a union shop? A. Simply by the workmen confronted with the fact that workmen or strike breakers would be supplied in the event of their resisting the attempt at reduction.

Q. Might it not also be by corruption of some of the leaders? A. Yes sir.

Mr. DAVENPORT: May I inquire, Mr. Ralston, at this time from you what is the competency or relevancy of this line of examination and of these exhibits?

Mr. RALSTON: I will now take pleasure in explaining to the gentleman.

We have a question submitted to the court which, in the judgment of counsel for the petitioners is so doubtful and so uncertain that notwithstanding Mr. Gompers, Mr. Mitchell and Mr. Morrison, the three parties concerned, have frankly admitted everything that was true and offered to admit it before they were put on the stand. Mr. Davenport has, in the case of Mr. Gompers, examined him for fifteen or twenty hours in a vain endeavor to obtain something that would justify his present course, and has examined the other petitioners proportionately long. His course in that respect, coupled with a threat of indefinite taking of testimony all over the country, to establish things not necessary for this examination, in our opinion, has compelled us to demonstrate to the court, if we can, the actual character of the prosecution, or persecution, to which the defendants are at this time being subjected; that is to say, that they are
1069 simply the victims of a war, if you will so denominate it, a conflict between the American Federation of Labor on the

one side and three bodies of organized capitalists or employed lawyers, whose sole purpose and intent, so far as the record thus far has disclosed it, has been to injure and destroy, every body of organized labor in the country, if they can do it, and to do it if it may be by the use of corruption, spies, strike breakers, boycotts of union label, resistance to eight-hour law, resistance to equality before the law as represented by Anti-injunction bills, resistance to child-labor law and to every public and private and public reform with which trade unions are allied. We propose to offer this evidence for the purpose of demonstrating, as I say, this widespread and comprehensive conspiracy, a conspiracy which, as we shall endeavor to show in a few minutes, extends to a blacklisting of all persons who have come under the ban of the two manufacturing organizations and the allied organizations of Mr. Davenport, and Mr. Assistant Attorney General James M. Beck.

1070 Mr. DAVENPORT: I now again renew my objections to the proposed offer of evidence as immaterial, irrelevant and impertinent to any of the issues pending in this case and I shall ask to have this evidence and these exhibits stricken from the record and the costs thereof imposed upon the defendants.

By Mr. RALSTON:

Q. Mr. Gompers, are there detective agencies employed by the National Manufacturers Association other than those you have stated? A. Yes, sir. The Farrell Detective Agency of New York.

Q. I wish you would state all you know with regard to that agency. A. I have a friend who—

Mr. DAVENPORT (interrupting): I offer the same objection—

The WITNESS (interrupting): Is it necessary to offer that again now? I understood that it was for convenience you both reserved your right to make your objections.

Mr. DAVENPORT: Will you kindly permit counsel to perform their appropriate functions?

The WITNESS: A friend of mine became attached to and was a member of that detective agency and in the New York World of October 27th, 1907, on page 4 appears an article, "A strike blocker," which in substance gives the work and methods of the Farrell Detective Agency. The detective agency declares that it would 1071 furnish men to employers who could be used at any time to prevent strikes as well as to report everything that was done inside of labor organizations and to work in the employer's interest in any way that was necessary. The Bureau is and has been employed by the National Association of Manufacturers. They have for sometime past established a separate department and distinct from the regular detective business, a department exclusively conducted for the National Association of Manufacturers. A man by the name of Mulhall who by the way also appeared at Chicago in protest—

Mr. DAVENPORT: Are you reading from an article in the paper? A. I am testifying—(Continuing:) In opposition to the labor plank

being adopted by the Republican Party. Mr. Mulhall is in charge of that department.

Mr. DAVENPORT: From what are you reading, Mr. Gompers?

The WITNESS: A memoranda I made some months ago. Thomas Vincent Farrell of that Farrell Detective Agency has one home address in Brooklyn, another home address at the Hotel Everett, New York City, and one other address during the summer at Spring Valley, New York. Mr. Allen Sangree is the press agent for the National Association of Manufacturers and part of his duty is assigned to the Farrell Detective Bureau. He is the author of the article which appeared in the American Industries, the official organ of the National Association of Manufacturers of which Mr. Van Cleave is president, which appeared in that publication, November 1, 1907.

Mr. Sangree is also assigned by the National Association of 1072 Manufacturers to be in charge of a number of men under him in what is known as the Century Syndicate at No. 1, West 34th Street, New York, a bureau established to attack and destroy the labor movement and the men representative of the labor movement. A man by the name of Hall, whose given name I do not now recall, is associated in the detective agency with Mr. Mulhall, and who in conjunction with Farrell and Mulhall has charge of the expenditures of the funds of the National Association of Manufacturers in the work to which I have just alluded.

Mr. DAVENPORT: Are you testifying from your own knowledge or reading from a memorandum that you have there?

The WITNESS: A memorandum from my own knowledge dictated by me at the time when I—at various times after I had gleaned the absolute information. It was at first denied by Mr. Van Cleave and then when proven beyond question, he did no longer deny it, but admitted it, that the Century Syndicate was a part of the National Association of Manufacturers and as a matter of fact during the last interview I had with Mr. Brandenburg he showed me upon the documents were printed the words, "Century Syndicate, No. 1, West 34th Street, New York City, Branch of the National Association of Manufacturers."

By Mr. RALSTON:

Q. Are you through with your answer, Mr. Gompers? A. No, just wait a moment. (Witness examines memorandum.) Yes, sir, that is all.

Q. Mr. Gompers, who is William M. Webster, of Chicago? 1073 A. He is Commissioner of one of the bureaus of information of the National Association of Manufacturers.

Q. Subordinate to Mr. Van Cleave? A. Yes, sir.

Q. Mr. Gompers, I show you this paper and ask you what it is? A. It is a bulletin, manifold typewritten, issued by Mr. W. M. Webster, the commissioner of the bureau to which I refer. It is bulletin No. 281 and indicates that there were 280 bulletins issued before that.

Mr. DAVENPORT: Is that to be laid in evidence?

Mr. RALSTON: Yes. I will ask the Examiner to make a copy of

and use the same as an exhibit and offer it in evidence, asking that it be marked as an exhibit.
Said paper was marked Exhibit A. H. No. 48, being a typewritten document, dated June 9, 1908, bulletin, No. 281, and signed W. M. Webster, Commissioner.)

By Mr. RALSTON:

Q. Mr. Gompers, I read from the exhibit just offered as follows:

Hiring of Help. During these times when there is so much surplus help on the market, the manufacturer is often tempted to hire men at the door, not thinking it necessary that the men in question be looked up by the labor bureau. This procedure cannot be too strongly condemned, as it is at just such a time that the services of this bureau should be enlisted by the manufacturer as there are now more questionable men out of work than has been the case for years. It is a well recognized fact that this is the method used by the Union Business Agents in placing their men in the shops and should be most carefully guarded against."

What do you understand by that? A. That was the direct information to the employers of labor that they should not employ union men, but non-union men supplied by that bureau.

Q. What is this—a black-list? A. Nothing else. There is no distinction. That is what it is.

Q. In other words this circular of the National Association of Manufacturers, sent out from Chicago, announces that in one of its branches it maintains a black-list of union men? A. Yes, sir.

Q. Have they ever been indicted for maintaining that black-list? A. No, sir.

Q. Either Mr. Van Cleave or his associates? A. No, sir.

Q. How long has that black-list been maintained? A. For a long period of time; for how long I cannot definitely say, but for many years—four or five years.

Q. Mr. Gompers, have the methods of these organizations in fighting the union and blacklisting men received the approval of all of their numbers? A. No, sir.

Q. Are there any who have dissented? A. Yes, sir, quite a number of them, some of whom have written me upon the subject.

Q. For instance who? A. The A. Rosenberg Motor and Manufacturing Company of Baltimore Maryland, who, under date of August 7th, 1907, sent a letter to the National Association of Manufacturers, of which the following is a copy and which I received, signed by, "A. Rosenberg, Proprietor:"

"BALTIMORE, MD., U. S. A., August 27th, 1907.

The National Association of Manufacturers, N. Y.

GENTLEMEN: We respectfully withdraw our name from your list of Members. We find that we have not gotten any business whatever through our joining your organization and do not believe that either of us can be of any benefit to the other.

Furthermore, the writer does not approve of such antagonism as is now displayed by the Association, which, as he was led to believe was mainly organized to further the exports of the American Manufacturers who were members of the Association.

Knowing you will see the propriety of this, we remain,

Very respectfully,

A. ROSENBERG MOTOR & MFG. CO.
A. ROSENBERG, *Proprietor.*"

1076 Mr. RALSTON: I offer in evidence that letter.

(Said letter was marked Exhibit A. II. No. 49, being a letter dated Baltimore, Md. U. S. A., August 27th, 1907, addressed to the National Association of Manufacturers, N. Y. and signed "A. Rosenberg Motor & Mfg. Co., A. Rosenberg, Proprietor.")

By Mr. RALSTON:

Q. Do you know anything of the position of Mr. R. C. Jenkinson of Newark, a member of the Association? A. Yes, sir.

Q. Has he also antagonized the conduct of the Association as it has been developed here? A. He has resented it in meetings of the National Association of Manufacturers as well as in his open declaration.

Q. Can you state whether the National Association of Manufacturers appeals for membership on the ground of its antagonism to the Eight-Hour Law and the Injunction Law and the Employers' Liability Law? A. Yes, sir. I received from Manufacturers and employers of labor who are out of sympathy with the policy of the National Manufacturers Association, quite a large number of copies of the circulars issued by Mr. Van Cleave, president of that Association, to them. They took the precaution however to cut or tear their own names out of the circular sent to me, for the obvious reason of protecting them against the discrimination or attack of Mr. Van Cleave and his association.

1077 Mr. RALSTON: I offer in evidence this circular of February 17th, 1908, and ask that it be marked as an exhibit.

(Said circular was marked as Exhibit A. II. No. 50, being dated New York, February 17, 1908, and signed J. W. Van Cleave President.)

By Mr. RALSTON:

Q. Reading from this exhibit, Mr. Gompers, I call your attention as follows:

"Suppose you should find some morning that due to lack of systematized efforts, Congress had established a Compulsory Eight-hour Law or an Anti-Injunction Law encouraging violence and boycotts during strikes, or an Employers' Liability Law, similar to one recently enacted in England making you responsible for accidents to your employees, factory or office, whether at home or at work; what would you do?"

Q. Now, Mr. Gompers, have you a copy of the English Employers' Liability Law? A. I have, sir.

Q. Will you produce it? A. I have a typewritten copy of the law. I have compared it with the copy of that law printed in the bulletin of the Bureau of Labor under the United States Department of Commerce and Labor, being bulletin No. 70 of May 1907, and this is a typewritten copy of that law containing all of the features.

Q. I think you mistook my question, Mr. Gompers. I asked you with regard to the English Liability Law? A. I have a copy of it but it is very long.

Q. You can produce it later? A. Yes, sir.

1078 Q. Mr. Gompers, you have handed me a copy of "British Trade Dispute Act, of 1906," have you? A. Yes, sir.

Mr. RALSTON: I will offer this in evidence and ask that it be marked as an exhibit.

(Said paper was marked Exhibit A. H. No. 51, being a typewritten copy of "British Trade Disputes Act, 1906.")

By Mr. RALSTON:

Q. Mr. Gompers, have you ever advocated or been associated with or had presented to Congress in any way shape, or manner, any anti-injunction act or acts going under that general title, as comprehensive, or as extreme as this English Act? A. I think not. It does not deal so comprehensively with the subject—the bills we have presented to Congress are not so comprehensive as the law passed by the British Parliament in 1906, and known as the Trades Dispute Act.

Q. Have you heard of any injurious effects, to repeat a question asked perhaps yesterday, in England resulting from the passage of this British Trades Dispute Act? A. No, sir; on the contrary, it is now generally regarded as the establishment of equality of the British workmen before the law with all other citizens in their associated efforts.

Q. I desire to introduce at this point the general bulletin gotten out by Mr. William M. Webster in which the law which you have advocated in substance before Congress is violently denounced and so done upon the request apparently of Mr. James W. Van Cleave. Can you identify this paper I now hand you?

1079 A. Yes, sir. This is another bulletin showed me, which was issued by William M. Webster, Commissioner of the Bureau of the National Association of Manufacturers of which Mr. Van Cleave is president, and is dated Chicago, May 4th, 1908, and it quotes the following telegram:

"Mr. William M. Webster, Commissioner, Chicago, Illinois:

Legislative situation extremely critical. Please cause your members to send as many individual messages of protest as possible to President Roosevelt and their Congressmen and Senators opposing amendments to Sherman Act and anti-injunction legislation. Vitaly important that protests be made numerous and quick.

JAMES W. VAN CLEAVE."

The bulletin then continues with reference to the telegram, "The contents of which explains itself. I am also in receipt of similar word from Marshall Cushing, our representative in Washington,

urging the same course and immediate assistance in these matters." I would say that Mr. Marshall Cushing was Secretary at that time of the National Manufacturers Association.

By Mr. DAVENPORT:

Q. What is the date of that? A. May 4th.

1080 Q. Are you testifying from your own knowledge? A. Yes, sir.

Q. That Mr. Cushing was Secretary of the National Manufacturers Association on May 4, 1908? A. No, I will strike that out. I think you are right. It was last year he was deposed. But Mr. Cushing was Secretary of the National Association of Manufacturers.

Mr. RALSTON: I will offer this in evidence.

(Said paper was marked Exhibit A. H. No. 52, being a typewritten document consisting of two pages, dated Chicago, May 4, 1908, headed "General Bulletin," and signed "William M. Webster, Commissioner.")

By Mr. DAVENPORT:

Q. You mean at the time this was sent out? A. I think not, sir.

Q. His connection with it had ceased long before, had it not? A. I think not. Mr. Cushing was ousted because of his loyalty to Mr. Parry, and that was taken as evidence of his——

Q. Are you testifying to this of your own knowledge? A. Yes, sir, and not only from my own knowledge but from correspondence of a confidential nature with a confidential agent of the National Association of Manufacturers.

Q. To you? A. Yes, sir.

Q. Have you that correspondence? A. I have and will furnish it if desired.

1081 By Mr. RALSTON:

Q. Mr. Gompers, I show you a circular and ask you to identify it. A. This is a four page circular issued by Mr. James W. Van Cleave, President of the National Manufacturers' Association, and bears date July 15, 1908, and is headed, "Denver's Appeal to the Business Man."

Mr. RALSTON: I will offer that in evidence and ask that it be marked as an exhibit.

(Said circular was marked Exhibit A. H. No. 53, being a four page printed circular, dated July 15th, 1908, headed, "Denver's Appeal to the Business Man", and signed James W. Van Cleave.)

By Mr. DAVENPORT:

At this point again, for the sake of continuity, I object to all this evidence as immaterial, irrelevant, impertinent and improper and give notice that I shall ask the Court to have the same stricken from the record and the costs imposed upon the defendants.

By Mr. RALSTON:

Q. Mr. Gompers, I notice that this circular dated July 15, 1908,

announces that, "Copies of this pamphlet as well as copies of the two preceding ones, entitled 'The Work that is Before Us', June 10, and 'The Work Done At Chicago', June 30, may be had by addressing the National Association of Manufacturers, 170 Broadway, New York, or Chemical Building, St. Louis."

What was the purpose of this appeal, do you know? A. 1082 To arouse the business men to opposition to any relief which labor might ask at the hands of Congress from the wrongs from which labor suffers.

Q. Was there not another purpose and perhaps a particular purpose to indicate that the power of the National Association of Manufacturers, which you have testified maintains a black list, should be thrown in favor of the nominee of one of the political parties for — presidency? A. It was, and to arouse the prejudice of the business men towards labor by misrepresenting the purposes which labor desired to accomplish.

Q. I quote as follows:

"As all of my readers know we took a leading part in defeating the revolutionary and anti-American doctrine which was put forward in Washington and Chicago by the chiefs of the American Federation of Labor."

What revolutionary and anti-American doctrine did you promulgate, if you are one of the leaders referred to? A. Never any sir. I would not advocate for myself nor would I be associated with any member or number of men in any association of any sort that preached or endeavored to procure revolutionary measures or doctrines of any sort. The advocacy of the American Federation of Labor of measures and the advocacy of myself of any measure has been for the amelioration of existing wrongs and conditions from which the working people suffer, but to secure them absolutely upon the Anglo-Saxon idea and ideals—to secure them by law, to secure those changes that were advocated by law, and which when 1083 they have been adopted either in the states by state legislature or by congress, have always been claimed as being in the interest of progress, civilization and of the entire people.

Q. I notice in this circular Mr. Van Cleave says:

"Bryan's election would tell the country and the world that reaction and revolution were dominant in the United States and this would destroy our prestige abroad as well as our prosperity at home. Moreover how do we know that a Republican Senate would dare to disobey the popular mandate for a Bryanite program in legislation and administration which a victory for Bryan at the polls would bring? It is the duty of American business men, regardless of their party, to bury Bryan and Bryanism under such an avalanche of votes in 1908 that the work will not have to be done over again in 1912 or ever.

JAMES W. VAN CLEAVE."

Now, can you inform us what reaction and revolution would become dominant, supposing that one candidate rather than another

were to succeed to the presidency? A. It is simply the blind hallucination of Mr. Van Cleave. I ought to add that I am and my associates and our fellow workmen are interested in the present political campaign, not because we are democrats or because we are republicans or belong to any other party, but because the democratic party has adopted as part of its political platform the declarations that if placed in power it will remedy this discrimination and injustice which is now practiced against the working people of the country.

1084 Mr. DAVENPORT: Mr. Ralston, can you in good faith state that you consider that this testimony has any relevancy whatever to the issues in this case?

Mr. RALSTON: If *will* Mr. Davenport will say to me in good faith that he believes that one-quarter of the testimony that he himself has introduced has any relevancy or pertinency to the issues presented by this contempt proceeding, then I will feel called upon to consider whether I will answer or not.

Mr. DAVENPORT: I will state right now that there is not a line of testimony that I have introduced that has not a legitimate and thoughtful bearing upon the issues presented in this case. Now, I renew my inquiry, because such mode of prostitution of this process is unworthy of a practicing attorney at the bar of the Supreme Court of the District of Columbia. Do you say that you in good faith introduce this evidence as in your judgment bearing upon the issues entered in these proceedings?

Mr. RALSTON: I say in good faith that I propose to present to the Court every bit of evidence which tends to show that Mr. Van Cleave is at the head of an organization which by methods in court and out of court, in politics and out of politics, is trying to ruin the labor organizations of this country.

Mr. DAVENPORT: What has that to do with the issues in this case?

Mr. RALSTON: It has a very direct connection with the issues here.

1085 Mr. DAVENPORT: Indicate it in some way.

Mr. RALSTON: Very well. It indicates good faith of the whole proceeding which has been begun here.

Mr. DAVENPORT: Whose good faith?

Mr. RALSTON: Good faith or bad faith of the attempt to hold Mr. Gompers, Mr. Mitchell and Mr. Morrison for contempt.

Mr. DAVENPORT: Does it affect in any way any allegation in the petition or in the return to the rule?

Mr. RALSTON: I think it does.

Mr. DAVENPORT: In what way? Will you indicate in what way?

Mr. RALSTON: If I have not already indicated it, I am not able to convince Mr. Davenport and I do not care to discuss the subject further, it being more important, with all respect to Mr. Davenport, to convince the Court than it is even to convince Mr. Davenport.

Mr. DAVENPORT: I renew my objection at this point to this testimony as irrelevant, immaterial, improper and scandalous and I shall move to have the same stricken from the record and the costs imposed upon the defendant.

Mr. RALSTON: You might get up a stereotyped form to save time on that—or a rubber stamp.

The WITNESS: Mr. Ralston, I have here a copy of one of the operatives reports in one of the detective agencies. I saw the original and had a number of copies made of it and I will aver that it is a true copy. The operative's number is omitted for fear that it might betray to the detective agency by which he is employed who he would be and it is not signed because the operatives of this detective agency never sign their names to their reports. they are known by their numbers.

By Mr. RALSTON:

Q. This is headed:

"Operative's number —; firm, Manufacturers Association; occupation, —; department, special; date, May 14, 1907."

Will you state how this came into your hands? A. Yes, sir. It was handed to me by the detective, upon the stipulation that I should not mention his number or name, but his name I did not know.

Q. What firm employed him? A. The National Association of Manufacturers.

Q. Was he employed directly by them? A. Not he, but the bureau, the detective agency was.

Mr. DAVENPORT: Do you know that of your own knowledge?

By Mr. RALSTON:

Q. What Bureau employed him? A. I could not now remember.

Mr. DAVENPORT: Do you know that of your own knowledge, Mr. Gompers? A. That he is a detective and employed by a detective agency, yes.

By Mr. DAVENPORT:

Q. The rest of your statement in regard to it—you know the distinction, don't you? I do not know how you considered it when you affirmed, but where you are—— A. (Interrupting.) I regard my affirmation as binding as the oath that may be taken by another.

Q. I say when you do that, you recognize the distinction between your own personal knowledge and that which is upon information? What I inquire of you now is if you are going on with this, whether I am to understand you are making this statement upon your own knowledge? A. That he gave me that report, yes.

Q. Is that the limit of your personal knowledge? A. That he is a detective and that he is employed by a detective agency, I also know.

By Mr. RALSTON:

Q. This is his report, is it? A. Yes, sir.

"Firm, Manufacturers Association," is shown in the heading——

By Mr. DAVENPORT:

Q. (Interrupting.) What Manufacturers Association? A. The National Manufacturers Association.

Q. Do you state that of your own knowledge? A. I could not.

Mr. RALSTON: I will offer this in evidence and we will follow it up later.

(Said paper was marked Exhibit A. II. No. 54 being a two page typewritten document, dated May 14, 1907, and unsigned.)

The WITNESS: That report purports to give the doings 1088 of a meeting of strikers of carpenters.

By Mr. RALSTON:

Q. Mr. Gompers, have you had or been controlled in any degree by any personal feeling or malice toward Mr. Van Cleave? A. No, sir. As a matter of fact during a conference held at Chicago last October, I think, October 1907, Mr. Thompson, a former member of the National Association of Manufacturers, who at one time was opposed to our movement and to myself, and who by association learned to have some better regard for me and to look somewhat more favorably upon the labor movement, introduced Mr. Van Cleave to me and me to Mr. Van Cleave, and I extended my hand to him and he apparently rather reluctantly extended his hand toward me. There was but a moment's conversation. I mention this incident as a fact that I would not shake hands with a man toward whom I entertained any ill will or malice.

Q. Mr. Gompers, a large number of editorials written by you have been introduced in evidence and reference made to some of them and also speeches on public occasions. Do you claim the right to write such editorials and give utterance to such speeches as a matter of constitutional right or not? A. Simply as a matter of constitutional right, the inherent right guaranteed to every citizen.

Q. Have you ever understood that the court had power to prohibit your fair comment on public affairs, whether relating to its 1089 decisions or to anything else? A. I understand that the court has no such powers. That power is not even possessed by Congress, much less by the courts,—I mean Congress to enact a law interfering with or infringing upon that right.

Q. Do you regard the present proceedings as an attempt to prohibit freedom of speech and of discussion? A. I do, as an unwarrantable attempt to gag and deny the right of freedom of speech and freedom of the press.

Q. Have you in any of your editorial or public utterances treated either Judge Gould's court or his decision or Justice Clabaugh's court of his decision with anything other than respect? A. Never. I even treat those who are antagonistic to me or antagonistic to the cause which I in part represent, with none other than respect. My language is always intended to be respectful, a firm insistence upon my rights as a man, as a citizen, equal with those of every other man of the country, no more, no less.

Q. If, in your opinion the foundation upon which Judge Gould

and Justice Clabaugh proceeded in signing their respective decrees was erroneous, do you claim the right to analyze their decision and if possible detect and demonstrate the error? A. I do so hold, sir, the same as I would discuss respectfully and insistently any error or any course inimical to the right and interest of the people, whether these infringements or errors or acts were committed by the courts, by the Congress of the United States, or by even the President himself.

Q. In your belief and in your theory of the matter, have you forfeited your freedom of free discussion by the fact you happen to be a defendant in this case? A. I regard that because I happen to be a defendant in this case does not and cannot interfere with my right as an American citizen to the exercise of freedom of speech and freedom of the press.

Q. Have you since the 23rd of December in your written publications or oral utterances taken any step other than free discussion of the meaning of the decisions, if they can so be interpreted, toward the boycott of the Buck's Stove & Range Company products? A. No, sir. I have taken no action to continue or perpetuate the boycott of the Buck's Stove & Range Company.

Q. When did you first learn that your right of free speech and free press as exemplified by your editorial or your platform utterances in this case was to be challenged. A. When the petition in this case was prayed for and obtained to cite Mr. John Mitchell, Mr. Frank Morrison and myself for contempt of the Court's orders.

Q. That was after the middle of July? A. Yes, sir, 1908.

Q. And six or seven months after the action of Judge Gould? A. Yes, sir.

1091 Q. In those six or seven months was your right so far as editorial criticism or public discussions are concerned, questioned by the Buck's Stove & Range Company, the Citizen's Industrial Alliance, or the Anti-Boycott Association, or by anyone else? A. No, sir.

Q. Will you state what this paper is I now hand you? A. This is the Corporation's Auxiliary Company circular.

Q. What are its purposes? A. Its purposes are to furnish reports of the proceedings of the conventions of the American Federation of Labor, contemplated labor legislation, both in Congress and the several states, pending strikes and lockouts, as well as other matters affecting the labor interests of the country, and of other matters. This is addressed to the Brooklyn Eagle of Brooklyn, New York, a daily newspaper there, and sent broadcast throughout the country, for I have other copies of the same circular addressed to other business men.

Mr. RALSTON: I now offer this circular letter in evidence.

(Said circular letter was marked Exhibit A. II. No. 55, being dated Cleveland, Ohio, October 14th, 1905, and signed the "Corporation's Auxiliary Company, by K. H. Smith, manager").

Mr. DAVENPORT: I now renew my objection to this and shall move to strike it from the record as immaterial and irrelevant and to have the costs of the same imposed upon the defendant.

1092 By Mr. RALSTON:

Q. I notice that this circular says, "In accordance with our usual custom we will have several delegates at this convention and are in position to furnish you with a full and complete report of the entire proceedings, including secret sessions."

Do you know what delegates were in its employ? A. I do not, sir.

Q. I will ask you what paper this is I now hand you? A. This is a copy of a circular of the Manufacturers' Information Bureau Company, office, Cleveland, Ohio, and is addressed to C. C. Tobin, Superintendent Continental Group Mining Company, Gunnison, Colorado, and is dated, Denver, Colorado, October 30, 1905.

Q. I notice this also proposes to have a number of inspectors in attendance at the convention of the American Federation of Labor, held in Pittsburg, November 13, 1905. Do you know who was present on behalf of that concern? A. I do not.

Mr. RALSTON: I offer that letter in evidence.

(Said letter was marked Exhibit A. H. No. 56, being dated, Denver, Colorado, October 13, 1905, and signed, "The Manufacturers Information Bureau, E. P. Weaver, General Manager.")

Mr. DAVENPORT: I make the same objection to this and shall make the same motion with reference to the costs thereof.

By Mr. RALSTON:

Q. What is this paper I now hand you, Mr. Gompers?
1093 A. It is a copy of a circular which I caused to be made of the original, printed, and is from the National Metal Trades & Founders Joint Committee, National Metal Trades Association Cincinnati, Ohio, National Founders Association, Detroit, Michigan, part of the National Association of Manufacturers.

By Mr. DAVENPORT:

Q. In that last statement are you testifying of your own knowledge? A. Yes, sir.

Q. That they are members and a part of it? A. Yes, sir, part of it.

Q. Can you impart to us the source of that knowledge? A. The admission of members of that Association of that fact.

Q. Do you make that statement under the obligations of your affirmation, sir? A. I think that is an entirely impertinent question.

Q. I repeat it. A. It is an impertinent question.

Q. I repeat the question and ask you to answer it. A. I say that this is an impertinent question.

Mr. RALSTON: He is not obliged to answer insults.

The WITNESS: I never forget my affirmation and I answer under my affirmation. All my answers are made under my affirmation.

Mr. DAVENPORT: Your statement that you state that upon information of members of the different associations, that it
1094 is a branch of the National Association of Manufacturers?
A. That it or its members are.

Mr. RALSTON: I offer this letter in evidence.

(Said letter was marked Exhibit A. H. No. 57, being dated Detroit, Michigan, May 1, 1908, and signed F. W. Hutchings, Secretary to the Committee.

Mr. Ralston: I object to this as irrelevant and immaterial and shall move to have it stricken from the record and the costs thereof imposed on the defendant.

Mr. RALSTON: I will read the body of this as follows:

"MAY 1, 1908.

To the members of the National Founders Association and National Metal Trades Association:

GENTLEMEN: Eight hour legislation at Washington. On February 24, 1908 we called to your attention the efforts of labor lobby at Washington to secure the enactment by Congress of eight hour legislation, particularly the bill introduced and advocated by Honorable John J. Gardner of New Jersey. In our letter we requested members to assist in defeating this proposed legislation and a great many responses were received. We are just in receipt of the following telegram from our Washington representative which no doubt will be of interest to you. 'Washington, D. C., April 30, 1908. Eight hour bill beaten in committee seven to five. Party vote. Marshall Cushing.' Truly yours, F. W. Hutchings, Secretary to the Committee."

1095 Mr. DAVENPORT: My objection and motion will apply to these also.

Mr. RALSTON: I think that is all I want to ask of Mr. Gompers at this time.

(Witness temporarily excused.)

FRANK MORRISON, a witness heretofore duly sworn, resumed the stand for further examination.

Cross-examination.

By Mr. RALSTON:

Q. Mr. Morrison, you were examined by Mr. Davenport as to this point. You stated in your answer and amended answer, at any rate in your amended answer, as follows: "That said notice (referring to declaration of Buck's Stove & Range Company as unfair) has not nor has any notice or statement referring to plaintiff and containing the word unfair or any word of the same or similar import, appeared in any subsequent number of the American Federationist or in any publication owned or controlled by the American Federation of Labor or by said Executive Council; nor has it been nor is it the intention of defendants that any such notice hereafter shall be printed or published with reference to the plaintiff."

Now state whether after the date of this answer, which was November 13, 1907, there appeared in the American Federationist any

notice placing the Buck's Stove & Range Company in an unfair list? A. No, sir.

Q. In what list did it appear after that date? A. Under the "We-Don't-Patronize" list.

Q. In your examination by Mr. Davenport you spoke as if, notwithstanding this statement, you had after that date published the Buck's Stove & Range Company in an unfair list, and in so doing you had committed some fraud on the court. I wish you would state what the fact is. A. Give me a Federationist and I will explain that.

Mr. DAVENPORT: I never stated that he committed a fraud on the court.

Mr. RALSTON: Fraud may not have been the word—take advantage of the Court or misled the Court.

Mr. DAVENPORT: Will you direct my attention to the record where any such statement was made by him or any such question asked by me.

Mr. RALSTON: I cannot now, because there are too many hundred pages of testimony and I have not the time or opportunity to go through them. The record will speak for itself.

The WITNESS: The statement that was made to the Court was that the following notice would not appear in connection with the Buck's Stove & Range Company of St. Louis, Missouri: "Special Notice Washington, D. C., June 25, 1907. To all Affiliated Unions: At the request of the Unions interested and after due investigation an attempt at settlement the following concern has been declared unfair:

Buck's Stove & Range Company, of St. Louis, Missouri.
1097 Secretaries are requested to read this notice at Union meetings and labor and reform press please copy. Samuel Gompers, President, American Federation of Labor."

A. I had in mind that notice. I might state that I have nothing to do in any way whatsoever with the publishing of that notice of the various concerns either in that unfair list in this special notice or under the "We-Don't-Patronize" list.

Q. Did you in your testimony confuse the unfair list and the "We Don't Patronize List"? A. I used the "We Don't Patronize" list—yes, certainly I did confuse the two and I might say I noticed another place where I used the words "unfair list" in my testimony, and it should have been the "We Don't Patronize" list. In my letters or anything else, I never used "unfair list." I used "We Don't Patronize" list.

Q. Did you after that date use the word unfair in connection with the Buck's Stove and Range Company? A. No sir.

Redirect examination.

By Mr. DAVENPORT:

Q. Now, Mr. Morrison, let me call your attention to the following language in your amended answer under paragraph four of the same: "That said notice has not nor has any notice or statement referring to plaintiff and containing the word unfair or any word of

the same or similar import appeared in any subsequent number of the American Federationist or in any publication owned or controlled by the American Federation of Labor or by said Executive Council."

In the October, 1907 number of the American Federationist, did there not appear the following: "Wonder whether Van Cleave will try for an injunction compelling union men and their friends to buy the Buck's Stove and Range Company's unfair products?"

A. I do not know for certain now that it appeared there but probably in editorial comments that statement did appear.

Q. And did not the following appear in the same number:

"The Buck's Stove and Range Company of St. Louis, of which Mr. Van Cleave is President, will continue to be regarded and treated as unfair until it comes to an honorable agreement with organized labor, and this too whether or not it appears on the 'We Don't Patronize' list?"

A. That is the January number?

Q. No, I ask whether or not it had not so appeared in the October number, 1907, of the American Federationist which had been published prior to your swearing to that answer? A. I do not recollect whether that appeared or not, but if it did, it was a matter of editorial comment and I did not consider that the injunction prevented—

Q. (Interrupting:) The injunction had not yet been granted, and you were making oath positively that no such statement as that had appeared in any number of it since June, 1907. A. My affidavit refers to the official statement—

Q. (Interrupting:) Your affidavit speaks for itself.

1099 Q. Now I will ask you whether or not it was not untrue, "That said notice has not nor has any notice or statement referring to plaintiff and containing the word 'unfair' or any word of the same or similar import appeared in any subsequent number of the American Federation or Federationist, or in any publication owned or controlled by the American Federation of Labor or by said Executive Council"—whether that statement, in view of what was in the October number, 1907, is not untrue? A. No sir, that statement is true.

Q. I again call your attention to this statement:

"Nor has any statement or notice referring to plaintiff and containing the word 'unfair' or any word of the same or similar import appeared in any subsequent number of the American Federationist, or in any publication owned or controlled by the American Federation of Labor or by said Executive Council."

A. My statement that I made there was true and—

Q. (Interrupting:) I read again to you—

Mr. RALSTON (Interrupting:). Let the witness finish his answer.

The WITNESS: In making that affidavit it was made in regard to the official matters that appeared in the American Federationist under the heading, "Special Notice," which I read.

By Mr. DAVENPORT:

Q. In view of the statement in the October, 1907, number—
“The Buck’s Stove and Range Company of St. Louis, of which Mr.
Van Cleave is president, will continue to be regarded and
1100 treated as unfair until it comes to an honorable agreement
with organized labor, and this too whether or not it appears
on the ‘We Don’t Patronize’ list,” do you say that this statement
in your answer was true: “That said notice has not nor has any
notice or statement referring to plaintiff and containing the word
unfair or any word of the same or similar import appeared in any
subsequent number of the American Federationist, or in any publi-
cation owned or controlled by the American Federation of Labor,
or by said Executive Council?” A. I say that my statement was
made in relation to the special notice which I read, which was pub-
lished in the American Federationist.

Q. I again direct your attention to the language of the amended
answer, “That said notice has not nor has any notice or statement
referring to plaintiff and containing the word unfair or any word
of the same or similar import appeared in any subsequent number
of the American Federationist, or in any publication owned or con-
trolled by the American Federation of Labor or by said Executive
Council.”

Mr. RALSTON: Are you trying to bulldoze the witness? It is not
necessary to shout at him.

The WITNESS: I reiterate my statement that my affidavit was
made in regard to the special notice which I read, and in the mat-
ter of editorial comment I never considered it as having any relation
whatever to this case. I considered that I had the right in public
speech to call attention to any concern that was antagonistic,
1101 and explain to the members of organized labor what this
trouble was about.

Q. Your answer is not responsive to the question. You knew that
the October number of the American Federationist had been pub-
lished at this time? A. I did.

Q. And that it contained that statement? A. Well, I do not know
that I did know it. I have not read up the statements that were
made editorially in the Federationist.

Q. You were making oath to this amended answer for use in this
case, and you read it, did you not? A. I read it, yes sir.

Q. Do you now wish to be understood as saying that you did not
know at that time that there was in that October Federationist that
statement? A. I mean to say that in making oath to that affidavit
I had in mind the official part of the Federationist, particularly the
part where the firms are mentioned in connection with the unfair
list, and the local unions are called upon to read it and the labor
press to publish it. I did not consider in any way the editorial
part of the American Federationist.

Q. Was not the October number of the American Federationist a
subsequent number of the American Federationist, a publication

der the control of the American Federation of Labor, or the Executive Council? A. The American Federationist is published—expenses are paid by the American Federation of Labor and it is published by President Gompers.

Q. You mean it is edited by him? A. Yes, he is the editor—and outside of the placing of the receipts and expenses I am in no way responsible—

Q. (Interrupting.) It is not a question of responsibility— A. (interrupting.) —for what appears therein.

Q. It is a question of fact. You made oath to this amended answer on the 13th day of November, and it appears by the Notary Public's certificate appended thereto; and at that time the October number of the American Federationist had appeared, you say? A. I do not say so.

Q. Do you say that it had not? A. What date?

Q. The American Federationist for October 1907 had not appeared prior to November 13th, 1907? A. Yes, I presume it was published prior to that time.

Q. Do you not know it was, and that you had distributed it? A. I do not. Do not know any such thing. I do not know anything about the distribution of it. I take it for granted it was in the usual course or order of business distributed. I have no recollection of reading it.

Q. You were called upon to make oath to the positive statement of fact here which had been prepared after conference with your attorneys and forwarded to you for verification at Norfolk, and do you mean to say that in making oath to this you did not understand the purport of the answer? A. I say I made oath to that in the light of the special notice which I read, and did not suppose, did not believe, and do not believe now, that it had or anything to do with editorial comment appearing in the Federationist in October or any other month.

Q. That is irresponsive to the question. Now I will ask you this question once more: When you made oath to this answer, is it not true that in the October number, 1907, of the American Federationist the following statement had appeared:

The Buck's Stove and Range Company of St. Louis, of which Van Cleave is president, will continue to be regarded and treated unfair until it comes to an honorable agreement with organized labor, and this too whether or not it appears on the 'We Don't Recognize' list."

A. I do not know at this time whether it did or not. As I state, I do not consider the editorial comments.

Q. Now, Mr. Morrison, in the answer also appears this, to which your attention has been directed by Mr. Ralston:

Nor has it been nor is it the intention of defendants that any notice hereafter shall be printed or published with reference to the plaintiff."

Do you wish to change at all your testimony in regard to what

appeared in the proceedings of the American Federation of Labor at the Norfolk convention in November, 1907? A. You mean do I want to——

Q. (Interrupting.) Do you want to change at all your testimony on that subject? A. I want to change the testimony along the line of the questions just asked by attorney Ralston.

1104 Q. In the proceedings of the American Federation of Labor's convention at Norfolk in 1907, did you not speak of the "We Don't Patronize" list as the unfair list? A. I never do, knowingly.

Q. In the report of the Executive Council to be found in these proceedings and in the testimony in this case? A. If the word "unfair" appears, meaning the "We Don't Patronize" list, it was unintentional. My intention always is to use the words "We Don't Patronize."

Q. Now, Mr. Morrison, in every statement in every report of the Executive Council to the American Federation of Labor as far back at least as 1899, which is set forth in this testimony, is it not a fact that the Executive Council, of which you are one, described the act of putting a concern's name in the "We Don't Patronize" list as putting it upon the "Unfair List" of the American Federation of Labor in every single number? A. I do not know that that is the fact.

Q. You do not know that that is a fact? A. No; I do not. I know we have a "We Don't Patronize" list.

Q. What distinction do you seek to make between the "Unfair" list and the "We Don't Patronize" list? A. We have a notice which we publish, and which I will read in regard to every firm that has received the consideration of the Executive Council. To commence with, the Federation does not declare any firm unfair. They endorse the position taken by the affiliated unions. "At the request of the unions interested, and after due investigation and attempt at settlement, the following concern has been declared unfair."

1105 Q. Is it true that every name that appears on the "We Don't Patronize" list has had that notice published in regard to it, before it appears there? A. I would not say that.

Q. Don't you know that is so? A. I do not. I know that the usual manner in which it is handled, that such a notice is published.

Q. And then what happens? A. Then it may not be published any more.

Q. What happens in regard to the name that is there? A. Then we publish a list of organizations under a "We Don't Patronize" list, which is notice——

Q. (Interrupting.) What do you mean by organizations? A. (Continuing:)—which is notice to the members of organized labor that we are not patronizing those firms because they are not patronizing or acting in harmony with the members of organized labor, and are doing everything they can not only to injure them, but to break down the good conditions they have secured.

Q. That is the purpose of the "We Don't Patronize" list? A. Yes sir.

Q. The question I put to you is whether or not every name that appears on the "We Don't Patronize" list is previously declared unfair and a notice of that kind published in regard to it. A. Before it can go on that "We Don't Patronize" list, the Executive Council gives a hearing and endeavors to secure settlement, and the action of the union which has the grievance is endorsed and then it is placed on the "We Don't Patronize" list.

Q. Is this notice published in regard to them? A. What notice?

Q. That notice (indicating). A. I will not say it is published in every case, but I think it should be.

Q. Do you not know that is the practice? A. It is the practice, but the question of whether—

Q. (Interrupting.) This was all alleged in the original petition, was it not, in this case?

Mr. RALSTON: I am going to claim for Mr. Morrison the right to be allowed to complete his answers.

Mr. DAVENPORT: He has that privilege. If you have anything further that will elucidate the matter, if it has been shut off, I am willing that it should be stated. If not, I will continue with my question.

By Mr. DAVENPORT:

Q. I want now to call your attention to the allegations of the original complaint filed in this case upon which was predicated the decree:

"That in each and every issue and copy of the said magazine so published and distributed by it, under the heading 'Official. American Federationist. Official monthly magazine devoted to the interests and voicing the demands of the trade union movement. Published by The American Federation of Labor at 423-5 G Street, N. W., Washington, D. C.,' and under the names of all its officers, so called, and of the Executive Council there appears a notice to all its component unions and members, that particular concerns, upon the application of particular unions named, and after due investigation and attempt at settlement, have been declared 'unfair' by said Executive Council, and requesting the secretaries of all its twenty-seven local unions to read such notice at the meetings of their unions, and requesting the labor and reform press of the country to copy it, which notice is signed by the said Samuel Gompers as president of said The American Federation of Labor in behalf of it and all its members:

"That this notice is so published and given for the purpose of singling out and designating individuals and concerns so named, and of notifying their customers, and the public generally, and all the members of said twenty-seven thousand local unions in their several localities, and of the several National and International Unions, State Federations and Central City Labor Unions that they are to be treated by them as unjust and hostile to the unions upon whose application such action is based, and that their business, products, and customers are to be boycotted, by each and all the

members of The American Federation of Labor and their friends and sympathizers, and that the whole power of its vast organization and combination is to be used against them to injure and destroy their business thereby, and that all the members of The American Federation of Labor are to abstain from purchasing or using said products, and from dealing with any person who purchases, handles or uses said product:

1108 "That in the successive monthly issues of said The American Federationist, under the heading 'We Don't Patronize' an official list of individuals and concerns which in previous issues have been declared 'unfair' and which are to be boycotted is published."

In this same amended answer which you swear to, appears the following: "They admit the publication therein of what is wrongfully termed in the complaint a list of persons who are called unfair, but which is simply under the heading of 'We Don't Patronize.' They admit that in successive monthly publications of the American Federationist are published an official list of individuals and concerns whom 'We Don't Patronize';"

Now, Mr. Morrison, do you say that the names of those that appear in the "We Don't Patronize" list have not previously been through the process of having a notice of the character described in this amended answer, "At the request of the unions interested, and after due investigation and attempt at settlement, the following concern has been declared unfair?" A. I do not.

Q. Do not what? A. You asked if I did not, and I say I do not. These names appear on that "We Don't Patronize" list and have been investigated and they have been hostile to labor organizations——

Q. (Interrupting.) And that notice published in regard to them? A. And that notice published. If the general practice was followed, it would be published. I cannot swear that every notice for every one did go in. There might have been one omitted.

Q. I now take up the concluding sentence as follows: "Nor is it the intention of defendants that any such notice hereafter shall be printed or published with reference to the plaintiff." A. Yes, sir, that is the——

Q. (Interrupting.) Do you mean to say your understanding of your answer was that that referred to the original notice in which the Buck's Stove and Range Company had been declared unfair? A. Yes, sir, I do.

FRANK MORRISON.

Subscribed and sworn to before me this 25th day of September, 1908.

ALBERT HARPER, *Examiner*.

Mr. RALSTON: Do you want to take up the examination of Mr. Gompers here?

Mr. DAVENPORT: It is now one o'clock and I have an engagement for the early part of the afternoon, but I can return here at three o'clock, if that will suit you.

Mr. RALSTON: That will be entirely satisfactory to me.

Thereupon, at 1:00 o'clock p. m. an adjournment was taken until three o'clock p. m.

ALBERT HARPER, *Examiner*.

1110

WASHINGTON, D. C.,

FRIDAY, *September 25*, 1908—Three o'clock p. m.

Met pursuant to adjournment.

Appearances, same as this morning.

Whereupon SAMUEL GOMPERS was recalled and testified further as follows:

By Mr. DAVENPORT:

Q. Not withdrawing or waiving in any way the objections which I have heretofore entered in this case in reference to the testimony adduced at this morning's session, and those of yesterday, relative to the matters introduced by Mr. Gompers, but insisting upon the same, I now desire to examine Mr. Gompers with reference to some of the statements he has made in connection therewith; and first I want to inquire of Mr. Gompers somewhat as to the particularities of this alleged attempt to bribe him which he has described. Mr. Gompers, did you have any conversation with Mr. Van Cleave in regard to that matter? A. No sir.

Q. Or with any other person representing the Buck Stove and Range Company? A. No sir, but Mr. Brandenburg—

Q. Other than Mr. Brandenburg? A. Mr. Davenport, I trust you will permit me to finish my answers. Mr. Brandenburg in his conversation with me assured me that there would be no
1111 difficulty in having Mr. Van Cleave personally give me the assurance which he, Mr. Brandenburg, made.

Mr. DAVENPORT: Will the stenographer please repeat my question.

(The stenographer repeated the question, as follows:)

"Q. Or with any other person representing the Buck Stove and Range Company?"

By Mr. DAVENPORT:

Q. Other than Mr. Brandenburg, as you say. A. Not other than Mr. Brandenburg.

Q. None other than Mr. Brandenburg? A. No sir.

Q. And how many interviews did you have with Mr. Brandenburg? A. I think, three.

Q. And where? A. One Saturday evening—

Q. Where? A. Oh; at the Victoria Hotel.

Q. All of these interviews were at the Victoria Hotel? A. Yes sir.

Q. In the city of New York? A. Yes sir.

Q. And was anybody present at the conversations between you and Mr. Brandenburg? A. No; Mr. Brandenburg objected to anyone being present.

Q. That will admit of a categorical answer.

1112 (The stenographer repeated the last previous question.)

A. No, Mr. Brandenburg insisted that what he had to communicate to me should be between he and me.

Q. Were these offers of bribes, or of bribery, made to you in writing, or orally? A. Orally.

Q. Will you give us the dates of those interviews?

(Mr. Gompers sent for some papers.)

Q. If you have not at hand here now that information—— A. Pardon me a moment. I dictated a statement when the entire matter was fresh in my mind, and I gave dates and hours.

Q. Well, that will suffice, then. Now, Mr. Gompers, you have made a statement in regard to this matter before this, have you not?

A. Yes sir.

Q. And published the same? A. Yes sir.

Q. And did you make it at the Norfolk convention? A. I did.

Q. In 1907? A. Yes sir.

Q. And is that statement to be found in the exhibit A. II. No. 1?

A. I am not sure.

Q. Let me call your attention to exhibit A. II. No. 1, to be found on pages 260, 261, 262, 263, 264 and 265. I will read to you what

I find therein, and ask you if that is a correct statement of the
1113 occurrences. I read from page 260. It is prefaced by:

“And now what follows records the story of the deepest degradation and maliciousness on the part of the National Association of Manufacturers.

“I went to New York on October 26, to have a conference with Vice-Presidents Duncan and Huber for the American Federation of Labor, and Messrs. Kirby, Hannahan and Spencer for the Structural Building Trades Alliance. On my return to Washington, October 29th, I called into my office Secretary Morrison and dictated the following to a stenographer:

“About a month ago, September 28th, when I was leaving the Victoria Hotel, 27th St. and Broadway, 27th Street exit, New York, a man accosted me: ‘Hello, Mr. Gompers.’ I said, ‘Hello.’ We shook hands. He said: ‘You remember me; I was a newspaper man and met you on the platform at the immigration conference last year. My name is Brandenburg.’

“I told him I was sure I had seen him somewhere but could not locate him, and was pleased to see him again. He said:

“Mr. Gompers, I am now in the employ of the National Association of Manufacturers in their campaign against labor, and I am against you, but I have known you and known you favorably and like you, and I think you ought to get together with Mr. Van Cleave and come to a better understanding as to your contentions, and I am in a position to help.’

“I answered that our position toward the National Association of Manufacturers was defensive; that I did not aim to attack the

organization as such or Mr. Van Cleave as its president, but
 1114 I was not going to permit him to make all sorts of attacks upon the labor movement without resenting them; that after all what our movement aimed to achieve was a better understanding with employers whether as individuals or associations, and, therefore, I was favorable to a conciliatory policy.

"He said that he thought an interview between Mr. Van Cleave and myself could be arranged some time. He said, however, that it would necessarily have to be between Mr. Van Cleave and myself alone. I said that we could discuss that matter some other time.

"About seven o'clock that same evening I returned to the hotel to get some baggage when the porter in charge of the coatroom handed me a note with the remark that the gentleman said he should hand it to me as soon as I got in and that he was waiting for me in his room.

"Opening the note I found it to be an unsigned request that he desired to see me upon a matter of importance and immediately in his room. I had already made other important engagements and consequently could not go to see him.

"On September 30th I received another unsigned note from Mr. Brandenburg from New York, in which he referred to the uncompleted conversation with me, that he was passing through Washington, and requested me to go to Edgefield, S. C., where he, Brandenburg, would go and expect my arrival within the next ten days, adding that there was nothing I could possibly do which 'could have a more satisfactory result for all concerned.'

"On the same day, September 30th, I wrote him a letter
 1115 saying that I would not hesitate to go to Edgefield, but my duties would not permit. I asked him whether it would not be possible for him to come here on his return trip to New York.

"On Monday, October 14, I received a telegram dated October 12, from Salisbury, N. C., from Mr. Brandenburg saying that he would arrive in Washington Sunday morning and leave on the Pennsylvania road Pullman car Caliph. Inasmuch as the telegram reached me too late, I was unable to meet him. On Tuesday, October 15, I wrote him stating these facts. I also wrote him that I would be at the Victoria Hotel, New York, October 26th, and that we might have an interview some time during that day or evening.

"He wrote me a note dated October 17th, received October 19th, expressing his regret that he missed me as 'matters are most critical,' urging me to see him 'this Saturday' (October 19th) instead of October 26th.

"I replied to him that it was impossible as I had a number of conferences to attend in Chicago, that I would leave there on the 25th, reaching New York on the 26th.

"On arrival at the Victoria Hotel, October 26th, I was handed a note from Mr. Brandenburg in which he said he had been to the hotel and left a note requesting me to call him up by telephone at his home, 71 Irving Place, telephone 1978 Grammercy.

"Together with Mr. James Duncan and Mr. Wm. D. Huber, Vice-Presidents of the A. F. of L., I had an engagement to meet

in conference with the representatives of the Structural Building Trades Alliance, Messrs. Kirby, Hannahan and Spencer, on 1116 the morning of the 26th. In preliminary conference with Mr. Duncan and Mr. Huber I called their attention to all of the foregoing in detail and asked their advice before I proceeded farther. They urged me to have a conference with Mr. Brandenburg, expressing the judgment that Mr. Brandenburg intended to give a piece of important news regarding the operations of the National Association of Manufacturers. Adjourning for lunch, I determined to postpone telephoning to Mr. Brandenburg at the address he gave, until the conference which primarily brought my colleagues and myself to New York was concluded. Between that time, however, another note was left in the office of the Victoria Hotel for me saying that he, Brandenburg, would phone again at either five, six or seven, o'clock. About 5:30 while the following gentlemen were in the room, Messrs. Duncan, Huber, Kirby, Spencer and Hannahan, the telephone in the room rang and Mr. Kirby, who went to the phone told me that a gentleman named Brandenburg desired to speak to me. I told Mr. Kirby that inasmuch as we were so busily engaged and I had said I did not want to be interrupted by the telephone he would better advise Mr. Brandenburg that I was expected to be free to talk in about half an hour.

"I believe Mr. Kirby is in the hall. Is that statement correct?"

"Mr. KIRBY: That is true, Mr. Gompers.

"About half an hour later he did call me up over the phone and I spoke to him. We arranged for him to meet me at the hotel in the lobby at 6:30 that evening. His persistent repetition 1117 that he wanted to see me alone rather aroused my suspicions so I at least made up my mind that others, if possible, should see him when he called and note his coming, his going and his manner. So I waited in the lobby of the hotel. With me were Mr. Duncan and Mr. Huber. The time passed for his arrival and I called him up by telephone. I was informed by a lady who said she was Mrs. Brandenburg that he was on his way and would be at the hotel to see me in a few minutes.

"I returned to the group of gentlemen I have named in the lobby with me, and stood with my back turned to the clerk's desk so that anybody who would come in to accost me would have to do so with my back turned toward him, and in full view of those with whom I was conversing. While in that position Mr. Brandenburg tapped me on the shoulder. We greeted each other and he excused himself for a few minutes because he said he wanted to telephone about a matter. He returned in about ten minutes and I introduced him to Mr. Duncan, Mr. Huber and several others. When I introduced him to Mr. Duncan, he turned to him and said: 'Are you James Duncan?' Mr. Duncan answered in the affirmative. I excused myself to the gentlemen, and Mr. Brandenburg and I went to my room, Number 310. I asked him to take a seat. He said that he preferred to talk to me while he was walking the room, and asked me to be seated. He began to talk with the most pained expression upon his face. His features were drawn. I repeat as near as I can recol-

lect his remarks and what few words I uttered during the
 1118 interview. You will bear in mind that this was dictated two
 days after the transaction; it was not done today. I am sure,
 however, that a mere recital of it can convey but little of the full
 purport of his statement. However, it is as nearly accurate as my
 memory favors me. He said:

'The purpose of my coming to see you is of the utmost importance
 to us. I am in charge of a certain bureau of a department organized
 for the National Manufacturers' Association. The purpose of
 it is to expose the immorality and the dishonesty of the leaders in
 the labor movement and to make it public. We have gone into the
 records of every prominent man in the American Federation of
 Labor, and we have affidavits of a number of men, executive officers
 of national unions who implicate you and others, showing the im-
 moral lives you and they have lived. All this is gathered and most
 of it in sworn statements.

'The time that you were ill at Little Rock, Arkansas, in 1895, the
 nature of your illness, is known, and it was reported to us that you
 had, expecting to die, made a statement, being a sort of a confession.
 My object in coming to you is to say that I want to save you. I
 want you to make a statement, something that would appear as if
 you had written it at that time, which would in no way cast any
 blame upon yourself, but would show a spirit of broad kindness to
 others whom you desired to save, a sort of a "Thanatopsis".'

'He handed me a paper that he had prepared. I read it twice,
 and realizing that he endeavored to impress upon my mind his
 knowledge of my supposed guilt, it was with the greatest
 1119 mental concentration that I was able to contain myself.

However, for the purpose of disarming any suspicion on
 his part that I resented his statement and for the purpose of having
 him go on further, I said: 'Well, I do not pretend to have been an
 angel.'

'I made this statement for its literal truth, he evidently ac-
 cepting it as a part acquiescence in his insinuations. He then pro-
 ceeded:

'As I say, I want to save you and while I do not want to express
 in specific financial terms what the National Association of Manu-
 facturers is willing to do, yet I can guarantee that you will be finan-
 cially safe for the balance of your life. All that you need to do is
 to give us the information which we want of the other men, and to
 give us the workings of the inner circle of your Council and the
 general labor movement.

'We do not want you to get out of the presidency of the Federation
 at the forthcoming convention, for the Manufacturers' Association
 does not like Duncan any more than they do you. They realize that
 if you were to get out now it would mean that he would be your suc-
 cessor; but in a month or two after your re-election at Norfolk, you
 can get out, and the publication of all of these matters in regard to
 the active men in the labor movement would destroy them, and they
 would have to get some nobody to be president, and then there would
 be little Federation left.'

"The fact that there was really no inner circle, and that I had no information of any immoral or dishonest act on the part of the labor men of the labor movement, had nothing to do with my 1120 frame of mind; but I take it that my state of feelings and frame of mind can be better imagined than I can attempt to describe it.

"At about this time Mr. Duncan, who was in the lobby of the hotel with the other gentlemen named, became impatient, and inasmuch as neither of us had partaken of any food since early in the day, he called me up over the 'phone from the lobby to my room and asked me whether I was coming down because he and the other friends wanted to go in to supper. I told him I would be down in five minutes. During these five minutes there was little said further than the desire I expressed that I might be permitted to keep the typewritten document so that I could look it over; that I wanted to think the matter over and perhaps it would be better to have another interview. This was arranged to take place at 10:30 Sunday morning, October 27th, in my room at the Victoria Hotel.

"When I met Mr. Duncan and Mr. Huber and one or two others in the lobby of the hotel they expressed their surprise of how near I appeared to a nervous collapse.

"I took out the typewritten document which Brandenburg had given me and without showing its fact to him, I asked Mr. Duncan to put his initials on it with the date as a means of identification. He did so. I handed him my key and asked him to go at once to my room and gather up all of the papers there were on the dressing case and take them to his room. I was apprehensive. Mr. Duncan did so.

"We then went to a nearby restaurant where they had dinner, but I could not eat with them. We took a walk up Broadway 1121 and returned to the hotel, when Mr. Duncan and Mr. Huber returned with me to my room so that I could recount to them what had transpired at the interview. The drawer of the table in my room was open. Mr. Duncan with an exclamation, said: 'Sam, somebody has been in your room since I took those papers away. I went through that drawer thinking there might be some papers you had forgotten in there, but I closed it. Of that I am positive.'

"It was then agreed that I should pursue the same course in the next interview with Brandenburg, and to endeavor to find out the absolute accuracy as to whether he was authorized to act by Mr. Van Cleave of the National Association of Manufacturers.

"The following morning, Mr. Huber asked one of the chambermaids doing duty in the hotel whether anybody had been into the room after we left. She answered in the affirmative, saying that the man in the brown suit of clothes and wearing glasses had been in my room.

"On the following morning, Sunday, October 27th, Mr. Brandenburg met me in the lobby of the hotel. We went to my room. The promise of immunity from exposure and a guarantee of my financial future were repeated. Mr. Brandenburg stated that if I did not

care to comply and sign the typewritten document he had prepared, that I might write something on a sheet of paper which would show age as having been written by me some twelve years ago in Little Rock that would be practically a nothing; that he was sent to Little Rock to obtain a paper which was supposed to be in existence, but that in his investigation he found simply a memorandum in 1122 the papers of a lawyer who had since died which were meaningless and having no connection with me; that this was of no use, and that he wanted this statement purporting to have been written by me at the time which he could show to Mr. Van Cleave and others, that there was no foundation for the statement, and that this was in line of his policy to safeguard me.

"I evaded the subject for a time with the statement that I realized the importance of the matter he had presented to me, but that I did not feel like giving a definite answer there and then, that after all, I had only a passing acquaintance with him, Brandenburg, and that while I had no doubt that he had authority to act, yet I would want to have more direct assurance. He answered:

'Do you mean that you want to see Mr. Van Cleave personally and get the assurance from him?'

"I answered that I thought that was about the only way that I would feel warranted to act.

"He answered that Mr. Van Cleave might suspect that this was a trap. For the purpose of allaying that suspicion, I answered: 'So might I regard your proposition to me! He said:

'You know that I want to help you. The opposition is against you particularly and against all others active in the labor movement, but I am desirous of saving you and having your service for us.'

"I quietly but firmly insisted upon an interview with Mr. Van Cleave as the only thing upon which I might give the matter 1123 further consideration. That I did not protest against his insinuations and propositions, he seemed to have accepted as my acquiescence and which evidently allayed his suspicions.

"He said that he thought that Mr. Van Cleave was in New York City; that it was Sunday and it was difficult to get into communication with men who could let him know where to locate him, Mr. Van Cleave, but that he would advise me later; that if I could stay over in New York until Monday such an interview might be brought about, but he would let me know later in the day. We then parted.

"I immediately repeated the conversation with Mr. Brandenburg to Mr. Duncan and Mr. Huber. About two hours later Mr. Brandenburg called upon me at the hotel, and because there were others, Mr. Duncan and Mr. Huber, in another room, adjacent to mine, he asked me over the 'phone from the lobby in the hotel to my room that I meet him in Room 318, on the same floor with my room. I was apprehensive for a moment, but concluded to go. However, I told Messrs. Duncan and Huber that I was going to that room.

"I went to room 318 and found Mr. Brandenburg there, and he told me that it was difficult to get the men over the Phone, but that there were editors of some newspapers and magazines in New York,

the New York Times, the New York Sun, McClure's and Everybody's and presidents of banks whose names he gave, but which I can not now recall, whom I could meet on the following day. I declined any and all of them unless I could meet Mr. Van Cleave himself, to verify his (Brandenburg's) statement, I should not consider the matter further.

1124 "He said: 'Well, I will arrange that Mr. Van Cleave will meet you in Washington.'

"In his effort to convince me that he was an authorized agent and representative of the National Association of Manufacturers he showed me vouchers and warrants and receipts for money paid to him as its agent. The warrants and vouchers and receipts were in printed forms of the Century Syndicate, No. 1 W. 34th Street, New York City, also printed thereon that it was a bureau or department of the National Association of Manufacturers.

"Mr. Brandenburg was very insistent that I should let him have a written statement, as I have already stated. He said that unless he had it by the following day, Monday, it would be of no use to him. I told him that I could not then make him a promise to do so, but if I made up my mind to do so I would call him up over the 'phone at his home, 71 Irving Place, telephone 1978 Grammercy, and tell him. I did not call him up; I did not write it.

"I immediately went to my room and there related to Mr. Duncan and Mr. Huber every detail of the statements made in the conference with Mr. Brandenburg.

"Suspecting that Brandenburg might have given me a false address, one of our friends to whom I told the results of the interview of Brandenburg with me suggested that when he (Brandenburg) left the hotel he ought to be watched as to where he went. I asked two friends, George Murray and Thomas Guerin, of the United Brotherhood of Carpenters and Joiners, who were calling upon Mr.

Huber, President of that organization, to follow Brandenburg wherever he might go. Mr. Guerin is a delegate to this
1125 Convention. They did so. He pursued a zigzag course and was seen to enter 71 Irving Place.

"Is that true, Brother Guerin?

"Delegate GUERIN: It is.

"I had an investigation made and found that Brandenburg did not register for election as having lived at 71 Irving Place.

"The publication of the scurrilous and malicious attack in the National Association of Manufacturers' organ, the American Industries, followed a few days later, and it made it quite clearly apparent to me that the purpose Brandenburg had to secure from me some written statement was for its publication as a sort of recantation or confession in connection therewith. It is quite evident that it was for that reason that he stated that unless he had that letter from me by Monday morning it would be of no use to him.

"The paper Brandenburg asked me to sign has never left my possession. It is as follows:

"So by devious ways I have come in view of the end of the period. Not far away is the final cessation of something mortal, that I know,

but that mystery of the suspension of other things immortal must yet be made clear. Soon I shall stand where I shall see with unblinded eyes, and to that point must come every one no matter by what path; and the realization of that fact palliates the bitterness with which I could contemplate my own course, were it not true.

1126 "For I have struggled with the humblest on a plane of equality, and I have walked and talked with the mighty ones of the earth and have lent them my power. The poor cigar-maker's apprentice has lived to become the master of million minds, and lived a little longer be what he is today, not even a master of himself.

"There is nothing of the whine in this. Emptied, broken as I am, I have nothing to ask. Nothing I might achieve would matter in a little while, and this what I write is after all nothing more than my retrospective thoughts expressed through the accustomed medium of my pen. Wisdom is cumulative and out of my abundance I might endow posterity. Vengeance by the law of compensation overreaches the grave, and I might undo more men a score of times than will regret my passing. Justice is exquisitely elusive, and I might with a truth told here and there palliate many a grave miscarriage. But why? Why should I, having driven on to my own aims leave my now disabled chariot to retrace the hippodrome?

"Each man in his way, be it great or small, exists in an attitude toward the world at large, in a second attitude toward his immediate associates, and in a third and almost invariably different, very different attitude before his own inner consciousness. Stripped of the sophistry that served as a mental lubricant when in activity, I stand at halt contemplating my ego.

"I see lust of power that has triumphed again and again.

"And there it abruptly stopped.

1127 "You will observe on the margin of the original typewritten document Brandenburg wanted me to sign, the initials of James Duncan and the date, each written by his own hand, and which I asked him to do immediately after the interview at which Mr. Brandenburg asked me to sign the paper when completed.

"I have these documents here for the inspection of any delegate who wishes to see them.

"I have, and herewith submit it to you for your examination, the notes, letters, card, scrap of paper which Brandenburg wrote or sent me, with the registered mark of the Victoria Hotel, showing the time of their receipt there; also the letters and the envelope sent by mail with the postoffice mark giving hour and date; also the telegram sent me by Brandenburg."

1128 Q. Now, Mr. Gompers, is that a correct statement of what occurred and all that occurred, so far as you could remember it at the time you dictated this statement? A. Yes sir; but other—

Q. (Interrupting.) That admits of an answer. I am interrogating you about this— A. I propose to answer.

Q. I insist upon an answer to the question categorically. A. And I propose to answer as my conscience dictates that I should.

Q. Conscience or no conscience—— A. That may be so with you, sir; it is not so with me.

Q. Conscience or no conscience, I now propose to interrogate you about this extraordinary transaction. A. And I propose to answer you.

Q. I beg your pardon. I insist upon a direct categorical answer to my questions; no wavering, no evasion—I want a direct answer to my questions. A. My name is Mr. Gompers, not Mr. Davenport; and I do not evade.

(At the request of counsel, the stenographer repeated the question as follows:)

“Now, Mr. Gompers, is that a correct statement of what occurred, and all that occurred, so far as you could remember it at the time you dictated this statement.” A. It is correct, but not all.

Q. Now, Mr. Gompers, did you see Mr. Brandenburg on 1129 any other occasions than those that are embraced in this statement? A. No sir.

Q. Do you remember that you had ever seen him before? A. Not until he recalled it.

Q. Did you then? A. I did.

Q. Where have you seen him? A. At the immigration Conference in New York City.

Q. When? A. About a year or two before.

Q. And have you seen him since? A. I have not.

Q. So that your personal acquaintance with Mr. Brandenburg extended only to four interviews? A. Yes sir.

Q. Is not that true? A. About that.

Q. Well, you have given every interview here in the statement, have you not? A. I have; I did not count them.

Q. Now, Mr. Gompers, I recur to that portion of this statement found at the bottom of the 1st column of page 264 of Exhibit A. II. No. 1, which reads as follows:

“I declined any and all of them unless I could meet Mr. Van Cleave himself, to verify his Brandenburg’s) statement, I should not consider the matter further.

“He said: “Well, I will arrange that Mr. Van Cleave will 1130 meet you in Washington.”

“In his effort to convince me that he was an authorized agent and representative of the National Association of Manufacturers he showed me vouchers and warrants and receipts for money paid to him as its agent. The warrants and vouchers and receipts were in printed forms of the Century Syndicate, No. 1 West 34th Street, New York City, also printed thereon that it was a bureau or department of the National Association of Manufacturers.”

Will you state what those documents were? A. They were other documents.

Q. What? A. They were other documents also. The documents to which I refer were expenditures—were drafts made out in favor of Mr. Brandenburg and for the Century Syndicate Bureau of the National Association of Manufacturers, all of them showing the close

relations and association of Mr. Brandenburg and that Bureau and Mr. Van Cleave.

Q. I am examining you now in regard to that statement. You say "In his effort to convince me that he was an authorized agent and representative of the National Association of Manufacturers he showed me vouchers and warrants and receipts for money paid to him as its agent. The warrants and vouchers and receipts were in printed forms of the Century Syndicate."

Now what were they? A. Vouchers, receipts.

131 Q. What do you mean by vouchers? A. Authorizations for payment or directions for payment, and receipts for payment, and matters of that character, showing the fact that Mr. Brandenburg was the paid agent and representative of the Bureau of the National Association of Manufacturers.

Q. How many were there of these? A. Quite a number of them, sir.

Q. How many? A. I could not tell you.

Q. More than two? A. Yes sir.

Q. More than three? A. Yes sir.

Q. More than five? A. About seven or eight, or ten—or more.

Q. What? A. Not many more.

Q. Not many more than seven or eight? A. Not many more than seven or eight, all different dates.

Q. They were all evidences of payment of money to him? A. And for the expenses of the Century Syndicate and of the Bureau of the National Association of Manufacturers, and for him.

Q. Were they all payable to him? A. And to others—yes; mostly payable to him.

Q. You have stated here they were for money paid to him 132 as its agent— "— he showed me vouchers and warrants and receipts of money paid to him as its agent." A. Yes sir; he told me—

Q. They were not promises to pay him, then? A. He told me—

Q. What were they? Do not evade this question. A. Now, Mr. Havenport, permit me to answer. It is all very good for you to ask the question, and I propose to answer.

Q. You state here that the warrants and vouchers and receipts were in printed forms of the Century Syndicate, 1 West 34th Street, New York; also that there was printed thereon that it was a bureau or department of the National Association of Manufacturers. Now when you were making this statement you did not claim to have seen any other evidences of the authority of Mr. Brandenburg than those vouchers, warrants and receipts? Do you now say there were other evidences of it? A. I think there were.

Q. You think, or do you know? Do you now recall? A. His statement that he went to the New York office—

Q. That is not responsive.

MR. RALSTON: Won't you let him finish his answer?

A. He told me he had gone to the New York office of the National Association of Manufacturers and obtained some of these documents,

and went to the Century Syndicate at 1 West 34th Street and obtained others, and he brought them for the purpose of convincing me that he was in the employ of and represented Mr. Van Cleave and the National Association of Manufacturers.

Q. What were these writings that you say he brought you? A. In the main, those that I have mentioned.

Q. You mean that he left the place of the interview and went and got those documents and brought them to you? A. He brought them to me.

Q. At that interview? A. Yes sir.

Q. Did he leave the place and go to that other place? A. I cannot remember; I do not remember whether we had two interviews on that Sunday or only one. I am not sure, but I am under the impression that there were two interviews, and that at the second interview he brought them.

Q. This was dictated by you, you say, two days after the interview. You were reducing this to writing for the preservation of your recollection of what had occurred and for future use? A. Yes sir.

Q. And you used it on this occasion before the Convention of the American Federation of Labor? A. And there were other very material points I had omitted in the dictated statement, and when my memory was refreshed by Mr. Duncan, I repeated it, I added to it; and you will find it published in that exhibit.

1134 —. You mean in here (Referring to Exhibit A. II. No. 1)? A. Yes sir.

Q. Do you refer to this on page 266, after the following statement:

"A handsome basket of roses and chrysanthemums was then presented to President Gompers on behalf of the delegation from the United Hatters of North America."

"Vice President DUNCAN: I want to remind President Gompers of one thing he has omitted to recount. This mysterious man, in addition to his information about the purpose of collecting alleged data about the characters of the men connected with the labor movement, added that if it could not be found he proposed to manufacture it. I say this because of its importance, and because in their papers they will continue to publish stuff purporting to be a record of the private lives of the men. The statement is important, because it was given to President Gompers with considerable emphasis.

"President GOMPERS: It is true that statement was made. There is not a word in the statement I have made this afternoon that is not a conservative statement of the facts. It was made conservative in order that I might be absolutely within the truth. Realizing the importance of making the statement, I had a consultation with Vice Presidents Duncan and Huber, and they asked me to write it down as soon as possible after I returned to Washington. In spite of that this very very important statement was overlooked. Mr. Brandenburg said: 'They are determined to destroy the men at the

1135 head of the labor movement, and particularly yourself, unless we can get you. We have men who have made affidavits,

en you have trusted in the labor movement, who have been national officers and who have had your confidence. If the information we have or can find is insufficient, we have got the bureau that n and will manufacture it!"

A. You see that was a pretty important statement and I had omitted it.

Q. You had omitted that in the carefully prepared statement? With the important duties I had, in spite of the care I endeavored to exercise in the preparation of that statement, I omitted that very important feature.

Q. Will you kindly state here what the papers were that were given to you by Mr. Brandenburg at that time? A. I have already answered that question, but I shall say it again, if you desire it.

Q. Well, were they vouchers? A. They were.

Q. Warrants and receipts? A. Yes sir.

Q. Was there any paper among them that purported to be signed by Mr. Van Cleave authorizing him to approach you? A. No sir.

Q. Or to represent him in this interview? A. No sir.

Q. And your belief that he represented Mr. Van Cleave was based upon the fact that he so stated to you, and the fact that he had the vouchers with him; is that true? A. No sir.

Q. What was there; what evidence was there? A. You asked me the question; won't you let me answer it? It was not only because of his statements but of his having undertaken to satisfy me of his relations with Mr. Van Cleave, and that he did represent Mr. Van Cleave; that he went to the bureau and office of the National Association of Manufacturers and obtained the documents which he presented to me, signed by Mr. Van Cleave, and authorizations by Mr. Van Cleave.

Q. Authorizations for what? A. Moneys, expenditures of all sorts.

Q. Was there any other evidence of authorizations from Mr. Van Cleave? A. As to what character do you refer?

A. To represent him in approaching you? A. No sir.

Q. Did these vouchers in any way refer to an interview with you? No, but they were referring to the work that the Bureau was doing towards crushing the organizations and assassinating the character of the men in the labor movement.

Q. That statement is irresponsible. A. That may be in your opinion, sir; it is not in mine.

Q. The question I asked you was whether there was any of those written statements or written documents which purported to authorize Mr. Brandenburg to approach you as the representative of Mr. Van Cleave with reference to such an interview as was being had? A. And I answered no.

Q. Now, do you say that these vouchers on the printed forms of the Century Syndicate, 1 West 34th Street, and having printed thereon that it was a bureau or department of the National Association of Manufacturers, were signed by Mr. Van Cleave? A. I do, sir.

Q. Did you notice when they bore date? A. And Mr. Van

Cleave's name was printed upon the document as President, with some form that no expenditure should be made without it being upon some such form or voucher or order, countersigned—no, I won't say that—ordered or countersigned by him.

(At the request of counsel for plaintiff, the last previous question was repeated by the stenographer.)

A. No sir. That is, my mind does not serve me, but they were all dates concurrent with the time.

Q. What do you mean by that? A. About that time.

Q. About that time? A. Yes sir.

Q. What do you mean by about that time? A. Within a few days and weeks. If my memory serves me right, and I
1138 think I am right, one or two were dated the day before our interview, on that Sunday.

Q. Did Mr. Brandenburg ask you to sign any other paper than that which he presented to you? A. No.

Q. And that is the paper which is contained in this statement which I have read to you? A. The unfinished—

A. Called a Thanatopsis? A. By him.

Q. Yes; and described as a Thanatopsis in this statement of yours? A. So designated by him.

Q. Yes. A. The document was uncompleted.

Q. In this statement you say:

"I have, and herewith submit it to you for your examination, the notes, letters, card, scrap of paper which Brandenburg wrote or sent me, with the registered mark of the Victoria Hotel, showing the time of their receipt there; also the letters and the envelope sent by mail with the postoffice mark giving hour and date; also the telegram sent me by Brandenburg."

Are those the papers which you have introduced in this case? A. What is that?

(The last previous question was repeated by the stenographer.)

1139 A. No; I simply submitted the original typewritten document which Mr. Brandenburg read to me and I read, and one of the notes that he sent me. But I have them. I had them here this morning.

Q. Have you any idea where Mr. Brandeburg now lives? A. I do not know. He may be in jail, for all I know, for abandonment of Mrs. Brandeburg.

Q. Will you answer the question? A. I did answer the question.

Q. Do you know where he lives? A. Will the stenographer please read my answer?

(The stenographer repeated the answer, as follows:)

"I do not know. He may be in jail, for all I know, for abandonment of Mrs. Brandeburg."

The WITNESS: Is that an answer?

By Mr. DAVENPORT:

Q. "I do not know" is an answer. A. I wanted to give you some information as to where you might possibly find him.

Q. You testified in behalf of the defendants for use on the trial before the final decree, did you not? A. I did.

Q. And were you examined at length by your counsel and by myself and Mr. Darlington in behalf of the plaintiff? A. I was.

Q. And having been examined and cross-examined and re-examined and cross-examined and re-examined again, at the

140 conclusion of this examination were you not asked by Mr. Parker, "Are there any other matters that you desire to refer to?" A. I think so.

Q. Did you in that statement make any reference whatever to this matter which has been introduced in this hearing on the contempt proceedings? A. The materiality of that statement as to showing the policy and methods of Mr. Van Cleave and to show the animus if it did not then occur to me.

Q. The question is did you. A. And I therefore did not.

Q. You did not, then, when you were being examined and re-examined with reference to this matter make any statement in regard to it? A. I have already answered that question in the affirmative, and I will repeat the affirmative answer if you so desire.

Q. In the affirmative or negative? A. I said in the affirmative.

Q. Did you make any reference to that matter? A. I say I did not, and for the reason that I gave.

Q. In the course of your deposition or testimony then given, you stated, did you not, that you had heard read the testimony of Mr. Van Cleave given previous to that time in the case? A. Yes.

Q. In the course of Mr. Van Cleave's testimony under the re-cross examination by Mr. Ralston, to be found on pages 450 and 451 of the original record in this case and on page 261 of the transcript for the Court of Appeals, appears the following:

"X 110 Q. Is the journal known as the 'American Industry' conducted by either of the organizations of which you are an officer? A. That has been published by the National Association of Manufacturers?"

"X 111 Q. And what is the name of its editor? A. Sir?"

"X 112 Q. What is the name of its editor? A. Atherton Brownell and William H. Lewis."

"X 113 Q. How long has Mr. Brownell been editor? A. About sixty days."

"X 114 Q. And he is the man referred to in the recent speech of Mr. Gompers at Norfolk, and which you have seen? A. I don't know whether he referred to Mr. Brownell or not. I don't remember. But I read some of the extracts of his speech. I never read it full, and I don't know whether he referred to Mr. Brownell by name or not."

"COUNSEL FOR PLAINTIFF: That is objected to as entirely immaterial and irrelevant, inadmissible and impertinent and incompetent.

"X 115 Q. Is that the man referred to by Mr. Gompers as asking him to go to a certain place in South Carolina? A. No, that is not the man that Mr. Gompers referred to in that connection. I read that report.

1142 "X 116 Q. Who was he? A. Well, his name has slipped my mind now, just this instant.

"X 117 Q. Was it Benjamin—it has slipped my mind for a moment too. A. Well, it has mine too. The name is just as familiar as it could be, and I have read it so often. I would be glad to mention it if I could recall it.

"X 118 Q. At any rate you are acquainted with the man who undertook to meet Mr. Gompers in South Carolina? A. No, I never saw him—never saw him.

"X 119 Q. Do you know the man? A. I don't know him at all, so far as I know that newspaper report was out of whole cloth.

"X 120 Q. Was he employed by the Journal of American Industries? A. No sir. I questioned Mr. Brownell on that point, and he said that he was not, that the man said that he had a great scheme, and that he could prepare a certain article for the magazine, and so forth, and he was employed to prepare that article, which he claimed would be of vast interest to American industries, and he told him to go ahead, that he was always after things that were of vast interest. And that is the extent of his employment, as I understand.

"X 121 Q. He was employed? A. No, I say that was the extent of his employment, that if he could present a certain article that would be of vast interest, of course, they could use it. Those 1143 magazine writers all work on that theory, as I understand it, and that is the basis on which they got up those articles.

"X 122 Q. Who was the editor preceding your present editor of the American Industries? A. Well, it really didn't have an editor between the times that our former secretary left the association in the latter part of May, until Mr. Brownell took that position. It was gotten out in a sort of community of interests—

"X 123 Q. (Interrupting.) Well, who was the general manager—who conducted it? A. There is another name that has slipped me; but a man by the name of Barsley, I think, was employed in the office of the Manufacturers' Association, and had been connected with the paper in an unofficial capacity. Mr. Cushing, our former secretary, was more or less familiar with it, and until we made the arrangement with Mr. Brownell the paper was gotten out in a provisional way by him.

"X 124 Q. Do you remember that in Mr. Gompers' statement it was said that this man, whatever his name may be, desired Mr. Gompers to go to a place in South Carolina? A. Yes sir, I remember that story.

"X 125 Q. Were you there at that time? A. In South Carolina?

"X 126 Q. Yes. A. I was in New York at the time that that statement seems to connect me with it, and I have not been in South Carolina in fifteen years.

"X 127 Q. You were not in South Carolina at all? A. I have not been in South Carolina in fifteen years."

Now, Mr. Gompers, having heard read the statement of Mr. Van Cleave, if you considered that this statement that you introduced here had any bearing in relation to the boycott of the Buck Stove and Range Company and the suit then pending, why did you not then refer to it? A. As I told you, its materiality and the animus of this proceeding, particularly since it has assumed the true form of the contempt proceedings, did not occur to me. Of course I did not expect that Mr. Van Cleave would confess to a matter which I had successfully exposed, and which, if it had been committed in the City of New York, would have been practically a felony under the laws of that State.

Q. Has this statement any bearing whatever on the question whether or not you have done the things stated in the petition to have you adjudged in contempt? A. As showing the animus of Mr. Van Cleave in the carrying on the war to crush the organizations of labor and to have me destroyed in the labor movement?

Q. Will the stenographer please repeat the question? I request direct answer to it.

(The last previous question was repeated by the stenographer.)

A. It has.

Q. In what way? A. In every way that I can understand these proceedings.

45 Q. Does it have any tendency to show whether or not you rushed this January number of the American Federationist after the temporary injunction order was signed and before it became operative by reason of the filing of the undertaking? A. I might say that in my testimony in regard to that I find that I have rather conformed to the wishes of our printer, the Law Reporter Company, and to follow out my own desire in the matter, in having the January issue of the American Federationist printed before the usual time.

(At the request of counsel for plaintiff, the last previous question was repeated by the stenographer.)

A. No, but it does show the animus on the part of Mr. Van Cleave.

Q. It does not show the animus of Mr. Van Cleave any more today than it did when he was in a court of equity asking for a decree restraining you from boycotting the Buck Stove and Range Co.?

No; but the matter has become more acute by reason of the petition to the Court for Mr. Mitchell and Mr. Morrison and myself to show cause why we should not be punished for contempt.

Q. I want to ask you a question or two about the incident that you testified to about your being followed by a detective. Can you tell us when that was? A. Some time in last September, I think it was; September, 1907.

46 Q. Some time in September? A. Yes sir.

Q. Is there any way by which you can reduce the date to any more of a certainty? A. No sir.

Q. How many times were you followed? A. Two or three days.

Q. Do you know the man's name? A. I do not.

Q. Did you ask it? A. I did, but he declined to give it to me.

Q. I wish you would state just what that shadowing consisted in?

A. Following me wherever I went.

Q. Where did you see him? A. In the street and in the car.

Q. And where else? A. Nowhere else.

Q. And where in the street? A. On First Street between V and W, opposite where I live; on G between Fourth and Fifth in front of the Pension Building, opposite where my office is located; on the corner of Fourth Street and G Street, when I was about to take the car; on E Street, between Tenth and Eleventh Streets, opposite the Elks Lodge, where it was then located, on the corner and on the car. When going either to a meeting in the Elks Lodge or going to the club rooms located where the Elks Lodge room was, I
1147 then used to take the car at the corner of Tenth and E Streets, which would go to Le Droit Park, and I would leave the car at about Fourth and Elm and would walk from that corner to my house on First Street between V and W, which is a very lonesome road late at night.

Q. Did you speak to him on more than one occasion? A. No sir.

Q. And where did you speak to him? A. About Second Street.

Q. And what time of day was it? A. Near midnight.

Q. What did you say to him? A. I turned around seeing him and recognizing him as the same man who had been following me for several days, and seeing him following me again, I demanded to know why he was following me. He first said that he was not following me. I told him that I knew that to be untrue and that he knew it, too, and that I insisted that he stop that at once and insisted that he should go about his way and leave me in peace. At that time he observed my Masonic button that I wore in the lapel of my coat and he made himself known as a Mason—whether he or I made some indication I am not now sure as to who did it first, but there was mutual recognition of that fact. We talked very briefly for awhile. I asked him in whose interest he was following me, and he told me.

Q. What did he say? A. If you will permit me to continue uninterrupted, I will say. He said that it was Mr. Van Cleave; and after a very brief conversation he said that he
1148 would not follow me any more.

Q. What was that brief conversation? A. It was rather of a Masonic character.

Q. Something that you do not care to disclose? A. Yes sir.

Q. He did not give you his name? A. He did not.

Q. And you did not inquire? A. I did inquire, but he said it was better not to give it.

Q. You asked him for his name and he would not give it to you? A. Yes sir.

Q. Did you ask him when and how he was employed by Mr. Van Cleave? A. No sir.

Q. Have you seen him since? A. I have not.

Q. Do you know where he lives? A. I do not.

Q. Have you any means of indicating where he can be found?
A. I have not. He evidently preferred that his identity should not be known.

Q. You sought from him no further evidence of authority
1149 to follow you in behalf of Mr. Van Cleave? A. None other,
after he had expressed his disinclination to give me any further information.

Q. And that closed the incident? A. Yes sir.

(Thereupon the hearing was adjourned until to-morrow morning at ten o'clock, Saturday, September 26th.)

ALBERT HARPER, *Examiner.*

1150

WASHINGTON, D. C.,

September 26, 1908—10 o'clock a. m.

Met pursuant to adjournment at 10 o'clock a. m., in Typographical Temple, Washington, D. C.

Present: Daniel Davenport, Esq., in behalf of the petitioners.

Present: Jackson H. Ralston, Esq., in behalf of the respondents.

Also present: Samuel Gompers, one of the defendants.

Whereupon SAMUEL GOMPERS resumed the stand for further examination.

By Mr. DAVENPORT:

Q. Reserving all my objections and not waiving any of them thereby, I proceed now to examine further Mr. Gompers in reference to some of the matters to which he has testified, as to which and the exhibits connected with I have objected as immaterial, irrelevant, impertinent and in some respects scandalous—— A. (Interrupting.) Your own questions?

Q. Let me state on the record my objection, will you? A. Proceed, if you have not finished it; I thought you were now raising objections to your own questions.

Q. Mr. Gompers, in reply to Mr. Ralston yesterday to
1151 the following question:

"Mr. Gompers, have you had or been controlled in any degree by any personal feeling or malice toward Mr. Van Cleave," you replied as follows:

"No, sir. As a matter of fact during a conference held at Chicago last October, I think, October 1907, Mr. Thompson, a former member of the National Association of Manufacturers, who at one time was opposed to our movement and to myself, and who by association learned to have some better regard for me and to look somewhat more favorably upon the labor movement, introduced Mr. Van Cleave to me and me to Mr. Van Cleave, and I extended my hand to him and he apparently rather reluctantly extended his hand toward me. There was but a moment's conversation. I mention

this incident as a fact that I would not shake hands with a man toward whom I entertained any ill will or malice."

Is that the only time you ever had any talk with Mr. Van Cleave?
A. The only time I can recall. It was subsequent to the original summons having been served upon me as one of the defendants in this case.

Q. It was at the Trust Conference in Chicago you say? A. Did I say Trust Conference?

Q. Well, a conference. A. You interjected the word "trust."

Q. The conference was held at Chicago in last October? A. I did not so testify.

Q. When was it and where was it that this interview was held? A. In Chicago.

Q. Whereabouts? A. In the Auditorium Annex; in one of the lobbies of the Auditorium Annex.

Q. Was it when you were in attendance at the conference in Chicago in October? A. Yes, sir.

Q. Now if I understand you in regard to this instance, you stated, "I mention this incident as a fact that I would not shake hands with a man toward whom I entertained ill will or malice." A. Yes, sir.

Q. And at that time you felt full of good will towards Mr. Van Cleave? A. No, he was a matter of utter indifference to me. But I think there is a happy medium between malice and good will—except that I entertain good will toward all mankind.

Q. You say this interview occurred after the suit was brought in which had been filed the bill of complaint sworn to by Mr. Van Cleave which sets forth the detailed account of matters which were the subject of the suit, which he claimed to be a malicious conspiracy on your part and others to injure and destroy the business of the Buck's Stove and Range Company, did it not? A. This is the usual language that the lawyers apply. I doubt that the matter was in the mind of Mr. Van Cleave as far as the phrases were concerned.

1153 Q. Will you repeat the question, Mr. Stenographer. A. and the answer I made also.

(The stenographer read the last question and answer above recorded.)

A. The phrase was contained in the bill of complaint evidently sworn to by Mr. Van Cleave.

Q. The question is whether it was after the suit was brought? A. Yes, sir.

Q. And it was after you had filed your answer, was it not to the same bill? A. I am not sure as to that.

Q. I can show you. A. If it so appears it is so, yes.

Q. Did you think it anything surprising that Mr. Van Cleave did not exhibit any cordiality toward you when you had been, according to the complaint, attempting to assassinate the business of the company of which he was president? A. I was neither doing anything of the kind, nor did Mr. Van Cleave so charge in his bill of complaint.

Q. Will you repeat the question, Mr. Stenographer?

(The stenographer read the question last above recorded.)

A. Yes, I thought he was a bigger man and would not permit his personal feeling to enter into a matter in legal controversy. It may be of interest in this case to relate——

Q. (Interrupting.) Do not introduce it now. If you have
1154 it when you come to your recross examination, you may give it then. I want to continue this examination now without interruption.

Mr. RALSTON: If it is a part of his answer he may give it now.

A. I want to relate an incident which led up to and followed the meeting of Mr. Van Cleave and myself at Chicago.

By Mr. DAVENPORT:

Q. I object to this mode of answering my question, and interrupting the process and progress of my examination of the witness. A. But I shall answer now.

Q. You do it under my protest. A. Certainly. The Court will determine as to whether the protest is well founded. Mr. Thompson, to whom I have already referred as having been an influential member of the National Association of Manufacturers, and I were both members of a committee of the conference, the committee on Resolutions. We were thrown together considerably by reason of our work. On the morning of the day that I met Mr. Van Cleave, Mr. Thompson asked me whether I would have any objection to meeting Mr. Van Cleave if he would consent. I said I would not; on the contrary I should be glad to, if it would lessen the bitterness of any feeling which might exist on his part towards myself or my associates or come to a better understanding, and he said, "All right, I will try to arrange it." A number of friends and myself were sitting in the cafe of the Auditorium Annex, for about five min-
1155 utes, and then walked out, and as we were emerging from the cafe into the lobby, Mr. Thompson and Mr. Van Cleave came forward and we met right face to face, each approaching in the opposite direction. It was then when the introduction occurred and incidents which I have related. Later Mr. Thompson told me that it was his purpose to bring Mr. Van Cleave to the table where my friends and myself were seated in the cafe and there, while seated, to create the opportunity that might result in a better feeling. That is all, sir.

Q. Now after this unseemly, as it seems to me, interruption of my examination, I will proceed. A. Anything that is within the bounds of reason seems to be unseemly to you.

Q. Now, Mr. Gompers, this occurrence in Chicago was during the period referred to by you in your testimony heretofore, between the 19th of October and the 26th of October when you had returned to New York, was it not? A. I cannot tell you from memory, but it is more than likely to be so.

Q. Now you stated yesterday that the incident of being followed

by a detective in Washington, who said he represented Mr. Van Cleave, was the last of September, 1907? A. About September.

Q. Now, Mr. Brandenburg had first approached you, according to your statement, during the latter part of September, 1907. A.

No, no.

1156 Q. Yes. A. No, no.

Q. Oh, yes. A. Well, I say no.

Q. (Reading from page 260 of report of the proceedings of the Annual Convention of the American Federation of Labor 1907.)

"About a month ago, September 28th, when I was leaving the Victoria Hotel, 27th Street and Broadway, 27th Street exit, New York, a man accosted me, 'Hello, Mr. Gompers.' I said 'Hello.' We shook hands. He said, 'Do you remember me; I was a newspaper man and met you on the platform at the Immigration Conference last year.'"

Then on September 30th you received another note and under the same date, September 30th—— A. (Interrupting.) When was that?

Q. In reference to the trip to Edgefield, September 30th, on which day you wrote him a letter saying, "I would not hesitate to go to Edgefield, but my duties would not permit."

On Monday, October 14th, you received a telegram dated October 12, from Brandenburg saying he would arrive—— A. (Interrupting.) All of this extraneous matter I could answer if you would permit me to for a moment.

Q. Do permit me to ask the question. On Tuesday October 15th, you wrote him stating these facts and that you would be at the Victoria Hotel, New York on October 26th. He wrote you a note dated October 17th, which you received October 19th, expressing his regret that he missed you and urging you to see him on Saturday,

1157 October 19th instead of October 26th. "I replied to him that it was impossible as I had a number of conferences to attend in Chicago, that I would leave there on the 25th, reaching New York on the 26th." Now by your statement it appears that you were first accosted by Mr. Brandenburg on the 28th of September. A. There is some difference between being accosted and approached. As I was about to emerge from the hotel, Mr. Brandenburg was in the doorway of the hotel and accosted me.

Q. And that was on the 28th of September? A. Yes, sir.

Q. And it was just about that time that you were being dogged by a detective who said he was acting for Mr. Van Cleave, in Washington? A. Yes, sir—or earlier.

Q. You have stated it was—— A. (Interrupting.) I was speaking of the shadowing by the detective in September.

Q. Now Mr. Van Cleave—I beg your pardon. A. Thank you, sir! Granted!

Q. Now, Mr. Gompers, did Mr. Brandenburg represent to you that he was acting in behalf of Mr. Van Cleave in seeking these interviews and in endeavoring to have you go to Edgefield, South Carolina? A. No, he——

Q. (Interrupting.) Who did he profess to represent? A. Let me finish my answer.

Q. All right, sir. A. He expressed his own desire to bring
1158 about better relations between Mr. Van Cleave and myself,
he as president of the National Association of Manufacturers
and I as President of the American Federation of Labor, saying that
he was in the employ of Mr. Van Cleave of the National Association
of Manufacturers and that he was in a position to say that that could
be brought — that better relations could be brought about.

Q. What was stated by him is in your direct testimony, given in
this case, or your testimony in response to inquiries by Mr. Ralston,
and also the statements that you made at the Norfolk Convention
which I have read to you. A. Only part of which you have read
to me.

Q. I read the whole of it as it appears in this record. Q. Let me
see that for a moment.

(Counsel hands witness Exhibit No. 1.)

Q. I trust you will facilitate my investigation of this interesting
question by not intruding—— A. I am exceedingly anxious to do
this sir. You did not read the statement that I made before the
convention of the American Federation at Norfolk. You only read
part of it.

Q. The statement that you did make at the Norfolk convention
and what is contained in this report will speak for themselves, and
the Court can see by comparison of the two whether or not your
present statement is correct on that point. A. But my statement
is true.

Q. But that is an incident that does not bear materially on
1159 what I am going to inquire about. A. Then we will go
ahead.

Q. Mr. Gompers, did you at the time Mr. Brandenburg approached
you and at the time this correspondence was taking place, suppose or
believe that he was acting at the instance of Mr. Van Cleave? A.
At that time?

Q. Yes, sir. A. At that time I had no reason to doubt his sincerity
that he was employed by the National Association of Manufacturers
and that his relations with Mr. Van Cleave were of such a character
that he could be helpful in bringing about some better understanding
between Mr. Van Cleave and the representatives of labor,
including myself. Whether he represented Mr. Van Cleave in his
first conference with me I cannot say.

Q. The question I now ask you is whether you supposed or believed
that he was acting in behalf of Mr. Van Cleave and that he
was bringing about this interview at the solicitation or suggestion of
Mr. Van Cleave? A. At that time I believed that a meeting between
he and I was purely accidental and I had not any opinion upon the
matter at all.

Q. Mr. Gompers, have you not stated that your suspicions were
aroused by this constant writing to you to have you go to one place

and to another? A. Yes, sir, but the writings were after that first interview.

Q. Certainly. I have given you those dates, October 14, 1160 and October 19. By that time had not your suspicions become aroused somewhat that there was something mysterious on foot? A. The communication of Mr. Brandenburg under an assumed name and the secretive manner of his correspondence all tended to arouse my suspicions that there was some plot on foot of some sort.

Q. Set on foot by Mr. Van Cleave? A. Yes, sir.

Q. Now you left Chicago to come back to New York on the 25th of October, according to your statement here, and arrived in New York on the 26th. When you met Mr. Van Cleave, these incidents of the dogging your footsteps in Washington by a detective, who claimed to be acting for him, and these suspicious movements in which Mr. Brandenburg was the principal actor and who you assumed to be connected in some way with Mr. Van Cleave, to say the least,—when you met Mr. Van Cleave why didn't you say something to him about it? A. There was neither time nor opportunity, nor did I have the matter in mind.

Q. You had agreed to meet Mr. Van Cleave and your mind was void of malice or ill will toward him of any kind, and here was a gentleman you supposed to be a party to a scheme of a very suspicious character. Why didn't you bring that to his attention at that time? A. I told you there was neither time nor opportunity, nor did I have it in mind.

1161 I have it in mind. I must say you do not know me, Mr. Davenport. If you did, you would understand that I am so thoroughly engrossed from time to time with the work which immediately commands my attention and my entire attention, that other things are obscured entirely from it at the time.

Q. That is your explanation of why, with the incidents that you have related of the detective in Washington and of the Brandenburg incident, that when you met Mr. Van Cleave, at a time when you were anxious or willing to meet him, you did not in any way bring up the matter of these things which had been so forcibly *been* brought to your attention? A. My meeting with Mr. Van Cleave did not last more than five or ten seconds, and we passed along.

Q. I infer from what you say that the manner of Mr. Van Cleave was quite discourteous? A. Oh, hardly discourteous.

Q. You considered him a bigger man than to do as he did? A. I did, ~~yes~~, sir.

Q. From his manner did you not infer that he was not anxious to have any relations with you? A. I judged so, yes, sir.

Q. When you came back to New York to meet Mr. Brandenburg, did it not lead you to suspect that possibly Mr. Brandenburg was not representing Mr. Van Cleave? A. Yes, sir, I suspected so in the beginning, but was quite convinced the following interviews, and what subsequently transpired.

Q. The fact that Mr. Van Cleave had snubbed you, so to
1162 speak— A. (Interrupting.) Well, he did not snub me.

Q. Well, he acted as you have described, which created

such an unfavorable impression upon your mind in regard to the bigness of the man, had made an impression upon you, had it not, that he did not want to have any relations with you? A. Hardly that.

Q. Well, we will leave it right there. Now, Mr. Van Cleave—

Mr. RALSTON (interrupting): Oh, don't, don't, don't!

Mr. DAVENPORT: We mix up great men sometimes!

By Mr. DAVENPORT:

Q. When Mr. Brandenburg met you, Mr. Gompers, on your return from Chicago, and the incidents occurred which you related at the Norfolk Convention and repeated here yesterday in my examination of you, did you say anything to Mr. Brandenburg that Mr. Van Cleave had manifested or assumed an attitude toward you in Chicago that made you suspicious that he was not seeking an interview with you? A. No.

Q. You did not say anything about that? A. I did not discuss the matter, but referred to the incident.

Q. What is that? A. We referred to the incident.

Q. In Chicago? A. No, in New York.

1163 Q. The incident of meeting him in Chicago? A. Yes, sir.

Q. And his disinclination to have anything to do with you? A. Yes, sir, and Mr. Brandenburg said, "That is his manner."

Q. Now, Mr. Gompers, these interviews occurred on the 26th of October and the last on the 27th of October. When you had last seen Mr. Van Cleave, he was in Chicago. Did you inquire whether at that time he was in New York? A. I did.

Q. And did you ascertain that he was? A. Mr. Brandenburg said that he was and in fact said that he would make an effort to see him in New York.

Q. Now at what time was it that the doubt that you had had as to whether or not Mr. Brandenburg represented Mr. Van Cleave, in view of what had happened in Chicago, was dispelled? A. It has never been dispelled up to this moment.

Q. The doubt? A. Yes, sir.

Q. As to whether he really did represent him? A. Yes, sir.

Q. Even you have a doubt that Brandenburg was acting at the instance of Van Cleave? A. I have no such doubt.

Q. You evidently did not understand the question, and your answer would be misleading to the Court. Repeat the question, Mr. Stenographer.

1164 (The stenographer read the last four preceding questions and answers.)

Q. Can you reconcile the two statements? A. If you will show the discrepancy or if you can discover any discrepancy and show it, I will make whatever corrections may be necessary to reconcile them.

Q. Repeat the questions and answers, Mr. Stenographer.

(The stenographer again read the four questions and answers above recorded and above referred to.)

A. It may be that I am dull but I really do not see the discrepancy. I do not discover the discrepancy. Perhaps it may be that I did not comprehend or do not comprehend your questions. If you will point out the discrepancy, I will try to correct it, if there be any.

Q. The discrepancy is in your two answers. A. Will you be kind enough to call my attention to the discrepancy?

Q. Repeat the questions, Mr. Stenographer.

(The stenographer again read the four questions and answers heretofore referred to and above recorded and read by the stenographer.)

A. I had no doubt that Mr. Brandenburg represented Mr. Van Cleave, in his correspondence with me or in the interviews that he had with me, after the first one in the doorway of the Victoria Hotel. My asking Mr.—well, that is sufficient. Is that responsive?

Q. Did not the fact that Mr. Van Cleave had so coldly received your warm and cordial salutation in Chicago lead you to doubt whether or not he was seeking an interview with you, as Mr. Brandenburg had previously represented to you? A. He seemed not to have at that time; he seemed not to have said it at that time.

Q. And at that time when these favorable conditions existed for such an interview, his coldness and roughness of manner put an end to the possibility of any interview? A. There was no such coldness or roughness of manner as you interject.

Q. You have described what he did and what you did and the result of it. A. And you are trying to give it a name.

Q. Well, without characterizing the conduct as to whether it was warm or cold or cool or hostile or repellant, did you not gather from that conduct that he did not care to have any interviews with you? A. No.

Q. When you came back to New York you told Mr. Brandenburg of it? A. Yes, sir, I mentioned it very casually.

Q. As indicating that there was not any such disposition on the part of Mr. Van Cleave as Mr. Brandenburg had represented? A. And he informed me it was simply his usual manner.

Q. But the fact remains—— A. (Interrupting.) That it in no way——

Q. (Interrupting.) That it had made such an impression upon your mind that you could not reconcile it with Mr. Brandenburg's statement that he was endeavoring in Mr. Van Cleave's behalf to bring about an interview with you? A. And he undertook to demonstrate by proof that he did represent Mr. Van Cleave.

Q. Now that doubt that you had which had been brought into your mind by reason of the conduct only a few days before of Mr. Van Cleave in Chicago as to his anxiety to have any interview or relations with you, even of a social character, when was that doubt dispelled? A. By the assurances and proofs of Mr. Brandenburg's close association with and representation of Mr. Van Cleave.

Q. You have detailed that with considerable particularity in your statement before the Norfolk Convention, to which your attention

was called yesterday, as to what occurred on the 26th. Mr. Brandenburg had produced Thanatopsis and handed it to you on the 26th? A. The evening of the 26th, yes, sir.

Q. And you had taken that document down to Mr. Duncan, and had him put his initials on it, with the date, as a means of identification? A. Yes, sir.

Q. Now, at that time had your doubt as to the unwillingness of Mr. Van Cleave to enter into relations with you been dispelled? A. Yes. I should say to you, sir, that my part of the conversation was very limited. Mr. Brandenburg did nearly the entire talking or at least nine-tenths of it—yes, a greater percentage than nine-tenths of it.

167 Q. What he said and did is to a certain extent at least recorded by you in this statement which you dictated to a stenographer in the presence of Secretary Morrison on October 29th? A. The conference lasted over an hour.

Q. On the 26th? A. On the evening of the 26th, yes.

Q. At that interview was the doubt still in your mind as to whether or not Brandenburg really represented Van Cleave? A. Oh, there was no further doubt in my mind—there was no doubt in my mind.

Q. At that time? A. At that time.

Q. So that on the evening of October 26th, the day you returned from Chicago, Mr. Brandenburg had convinced you that he really represented Mr. Van Cleave? A. Yes, sir.

Q. How did he do it? A. By his statements.

Q. His assertions that he did? A. Yes, sir.

Q. Can you tell us what those statements were? What was it that dispelled this demon of doubt which had intruded into your mind when the gentleman that Mr. Brandenburg was representing or assumed to represent had so curtly declined, by his manner, to encourage any further relations with you at Chicago? A.

168 The demoniac idea seems to be uppermost in your mind, as well as the contrast of courtesy of others. If you will just put in plain terms what you want to ask, I will try to answer you.

Q. Mr. Stenographer, will you read the question and see if there is any obscurity about it?

(The stenographer read the question above recorded as follows: Can you tell us what those statements were? What was it that dispelled this demon of doubt which had intruded into your mind when the gentleman that Mr. Brandenburg was representing or assumed to represent had so curtly declined by his manner, to encourage any further relations with you at Chicago?

Mr. RALSTON: My only objection to that question is that it has been asked in different forms about six times and is encumbering the record.

The WITNESS: Mr. Brandenburg's repeated assertions that he represented Mr. Van Cleave, the card, the papers that he had with him, representing to be or in connection with the National Association of Manufacturers, the apparent earnestness with which he impressed

upon my mind the necessity of the desire to help me to get out of the general wreck which the National Association of Manufacturers were about to bring about in the labor movement, and of the assassination—no, the destruction of the characters for morality and honesty of the labor men; the offer of immunity to me; the offer of guaranteeing my financial future; all of which satisfied me that he was speaking for Mr. Van Cleave and for the National Association of Manufacturers and removed any doubt, if I had any.

1169 Q. Now, Mr. Gompers, in your statement at Norfolk, to which your attention has been called by me, and which is in the record, you say, "When I met Mr. Duncan and Mr. Huber and one or two others in the lobby of the hotel, they expressed their surprise at how near I appeared to be in a nervous collapse." That was after this document had been presented to you with the request that you sign it, so that it might be used to perpetrate a fraud, he having said that it was to be dated back and so fixed up as would make it appear that it was a statement made by you when you supposed you were on your death bed at Little Rock in 1895. A. The presentation of that document and the other offers which were made to me, the assumption on his part or the part of Mr. Van Cleave that I was either immoral or dishonest, or under the threat of exposure of such alleged conduct, that I could be either browbeaten or bought, was all so repugnant to me—

Q. The point of that question is that this occurred after the document had been presented to you. A. Mr. Stenographer please read the part of my answer I have given.

(The stenographer read the witness' answer as above recorded.)

A. (Continuing:) That it required all my power of concentration to suppress my indignation and anger. Had it not been that—

Q. (Interrupting:) Let me interpose an objection there that your answer is not responsive to my question and I insist upon a more direct answer to the same. A. After I have concluded my answer, you may. Had it not been that it was my purpose to more completely get from Mr. Brandenburg the evidence that he represented Mr. Van Cleave, I should have attacked him physically.

Q. Now this agitation of yours that you have described followed the presentation to you of the document referred to which he wanted you to sign, did it not? A. The document was a part of it, sir.

Q. This agitation that you have described as being manifested by you, even approaching a nervous collapse when you saw Messrs. Duncan and Huber after parting with Mr. Brandenburg, followed, in point of time, the presentation to you of the document? A. In part, yes, sir.

Q. The part that you referred to in your statement at Norfolk? A. In part. All of the—

Mr. RALSTON (Interrupting): What was that question?

Mr. DAVENPORT: Counsel for Mr. Gompers desires to have the question read so he may know what it is.

(The stenographer read the last two questions and answers above recorded.)

By Mr. DAVENPORT:

Q. Now, that same evening that you refer to in the report at Norfolk occurred the mysterious invasion of your private room at the hotel. Let me recall it to you as it is stated and as it was called to your attention yesterday:

1171 "I took out the typewritten document which Brandenburg had given me and without showing its face to him I asked Mr. Duncan to put his initials on it with the date as a means of identification. He did so. I handed him my key and asked him to go at once to my room and gather up all of the papers that were on the dressing case and take them to his room. I was apprehensive. Mr. Duncan did so.

"We then went to a nearby restaurant where they had dinner but I could not eat with them. We took a walk up Broadway and returned to the hotel, when Mr. Duncan and Mr. Huber returned with me to my room so that I could recount to them what had transpired at the interview. The drawer of the table in my room was open. Mr. Duncan with an exclamation said, 'Sam, somebody has been in your room since I took those papers. I went through that drawer, thinking there might be some papers you had forgotten in there, but I closed it. Of that I am positive.'"

That incident to which I have referred, which had followed your apprehension that something was about to occur, which led you to send Mr. Duncan with the key to your room and gather up the papers and take them to his room, occurred that evening? A. Yes, sir, after the interview with Brandenburg in my room.

Q. Now at that time you had no doubt that Mr. Brandenburg represented Mr. Van Cleave? A. I had no doubt.

Q. Whatever doubt you may have had as to his authority to represent Mr. Van Cleave, from whatever source originating, had been dispelled by that time? A. If I had any doubt—

Q. (Interrupting:) It had been dispelled? A. If I had any doubt that Brandenburg represented Van Cleave before, I had no doubt that—any doubt, if I had any, was dispelled by Mr. Brandenburg's statement to me.

Q. At that time? A. That evening.

Q. You follow in your statement with this:

"It was then agreed"—that is, between you and Duncan and Huber,—“that I should pursue the same course in the next interview with Mr. Brandenburg and find out whether he was authorized to act by Mr. Van Cleave or the National Association of Manufacturers.” At that time you still had doubts whether he was authorized to act for him, had you not? A. No. Pursuing the same course in the other interview with Brandenburg, which was to take place, refers to the attitude which I assumed that Mr. Brandenburg and Mr. Van Cleave had me in their power and that I was

apparently willing to consider the proposition they made to me for immunity and reward.

Q. Now, Mr. Gompers, I call your attention to *Thanatopsis*, which was the paper which had been produced by Mr. Brandenburg, and asked you to sign, which you kept in your possession—— A (Interrupting:) When completed.

Q. (Reading:) "So by devious ways I have come in view of the end of the period. Not far away is the final cessation of something mortal, that I know, but that mystery of the suspension of other things immortal must yet be made clear. 1173 Soon I shall stand where I shall see with unblinded eyes, and to that point must come every one, no matter by what path, and the realization of that fact palliates the bitterness with which I could contemplate my own course, were it not true.

"For I have struggled with the humblest on a plane of equality and I have walked and talked with the mighty ones of the earth and have lent them my power. The poor cigarmaker's apprentice has lived to become the master of a million minds, and lived a little longer he what he is today, not even a master of himself.

"There is nothing of the whine in this. Emptied, broken as I am, I have nothing to ask. Nothing I might achieve would matter in a little while, and this what I write is after all nothing more than my retrospective thoughts expressed through the accustomed medium of my pen. Wisdom is cumulative and out of my abundance I might endow posterity. Vengeance by the law of compensation overreaches the grave, and I might undo more men a score of times than will regret my passing. Justice is exquisitely elusive, and I might with a truth told here and there palliate many a grave miscarriage. But why? Why should I, having driven on to my own aims leave my now disabled chariot to retrace the hippodrome?

"Each man in his way, be it great or small, exists in an attitude toward the world at large, in a second attitude toward his 1174 immediate associates, and in a third and almost invariably different, very different, attitude before his own inner consciousness. Stripped of the sophistry that served as a mental lubricant when in activity, I stand at halt contemplating my own ego.

"I see lust of power that has triumphed again and again."

When Mr. Brandenburg presented that document to you to sign, did it occur to you that there might be a doubt whether Mr. Van Cleave wanted you to sign that? A. It occurred to me that it was simply one of the links in the chain of destruction which was planned against me and which in some form or other would be accepted as a confession of wrongdoing on my part or on the part of others whose undoing was referred to in another part of the document and which I was to proclaim.

Q. At that time how old were you, Mr. Gompers? A. At which time?

Q. At the time you are testifying about—in October 1907? A. I was 57 years of age.

Q. And with unimpaired vigor of faculty? A. Yes, sir, but that was to represent me about ten years before.

Q. Yes, I understand that, but you were at that time in full possession of your vigorous faculties? A. At which time?

Q. At the time this was handed to you? A. Yes, sir.

1175 Q. Was there anything in the character of that paper that led you to doubt whether or not Mr. Van Cleave wanted any such document as that or that he could make use of it? A. Merely that it was a link in the chain and that it was made or based upon the fact of my illness and the severe character of my illness in Little Rock, Arkansas, in 1895.

Q. Repeat the question, Mr. Stenographer.

(The stenographer read the question last above recorded.)

A. Was there any doubt? No. Simply it was to be accepted to be a confession and recantation—confession of wrong doing and a recantation of my life's work.

1176 Q. You were a man at that time, were you not, who had had a wide experience with the affairs of this world and with human nature? A. Yes, sir; otherwise I might not have been able to control myself as well as I did.

Q. And you wish to be understood as testifying that there was nothing in that instrument, in the nature of it, in the phraseology of it, that led you to doubt whether Mr. Van Cleave could have authorized anybody to get you to sign such a statement as that? A. There was no doubt in my mind at all.

Q. And there was nothing in the paper, or in the nature of it? A. No, sir.

Q. Notwithstanding the dissipation of all doubt in your mind as to whether this gentleman represented Mr. Van Cleave you arranged for an interview on the following day, according to your version of the matter as given two days afterward, when you dictated in the presence of Mr. Morrison and account of it to a stenographer and which you used at Norfolk, did you not? A. I did.

Q. For the purpose of finding out whether he was really authorized to act for Mr. Van Cleave or the National Association of Manufacturers? A. No; but to conclusively demonstrate it to my mind that he did represent Mr. Van Cleave.

Q. The following day you saw Mr. Brandenburg again, and it was at that interview he produced the vouchers, warrants
1177 and receipts. Let me call your attention to what you state in regard to that. At that interview, which was on a Sunday, you say:

"I quietly but firmly insisted upon an interview with Mr. Van Cleave as the only thing upon which I might give the matter further consideration."

At this time you had by your manner indicated that you were in a compliant mood with reference to the suggestion? A. That was the attitude I assumed all the way through, in conferences with Mr. Brandenburg to get from him the fullest possible information that I could.

Q. When you insisted upon the interview with Mr. Van Cleave you proceed in your statement to say:

"He said that he thought that Mr. Van Cleave was in New York City; that it was Sunday and it was difficult to get in communication with men who could let him know where to locate him, Mr. Van Cleave, but that he would advise me later; that if I could stay over in New York until Monday such an interview might be brought about, but he would let me know later in the day. We then parted.

"I immediately repeated the conversation with Mr. Brandenburg to Mr. Duncan and Mr. Huber. About two hours later Mr. Brandenburg called upon me at the hotel, and because there were others, Mr. Duncan and Mr. Huber, in another room, adjacent to mine, he asked me over the 'phone from the lobby in the hotel to my room that I meet him in room 318, on the same floor with my room. I was apprehensive for a moment, but concluded to go. However, I told Messrs. Duncan and Huber that I was going to that room.

1178 "I went to room 318 and found Mr. Brandenburg there, and he told me that it was difficult to get the men over the 'phone, but that there were editors of some newspapers and magazines in New York, the New York Times, the New York Sun, McClure's and Everybody's and presidents of banks whose names he gave, but which I can not now recall, whom I could meet on the following day. I declined any and all of them unless I could meet Mr. Van Cleave himself, to verify his (Brandenburg's) statement, I should not consider the matter further."

Had you no doubt then whether or not Mr. Brandenburg represented Mr. Van Cleave? A. No doubt at all. The mentioning of the editors, the managers or those in control of the newspapers, or the reference by Mr. Brandenburg to the bankers, were in the nature of an assurance to me that I could see them and that the financial matters would be so arranged.

(Mr. Gompers left the room for a moment, and on his return, at his request, the stenographer repeated the last preceding question and answer.)

A. Assured by underwritten guarantee.

Q. Is that the best you can do in answering my question? A. I am trying to tell you the facts and to respond to your questions.

Q. I will let it go at that, then, and pass on. On this Sunday, then, on your refusal to consider the matter further unless you could meet Mr. Van Cleave himself to verify his (Brandenburg's)

1179 statement, he replied: "Well, I will arrange that Mr. Van Cleave will meet you in Washington." At that point did this gentleman, Mr. Brandenburg, in order to convince you that he was the authorized agent and representative of the National Association of Manufacturers, go and get those receipts and vouchers which you have stated as being what absolutely convinced you of the full authority of Mr. Brandenburg to act for Mr. Van Cleave?

(At the request of witness the question was repeated by the stenographer.)

A. Yes, for he thereafter again urged me to sign the paper which could be completed in a little while, the paper which he designated as a sort of Thanatopsis.

Q. The question is whether he then went out on your refusal to entertain the proposition unless you could see Mr. Van Cleave personally, and his saying that he would arrange for a meeting in Washington—did he then go out and get these vouchers which convinced you fully? A. I think that was the circumstance.

Q. And that gave you the convincing proof that he was what he purported to be, the authorized agent of Mr. Van Cleave in the transaction? A. Yes, sir. I then did not communicate to him that I would not sign that document, but led him to believe that the matter was still undecided on my part, for when we parted he was still under the impression that I had the signing of that document under consideration. He laid so much stress upon the necessity of having that by Monday morning—

Q. That is, the following morning? A. Yes—that I was
1180 fully convinced that when he did not have that document by Monday morning he would proceed, as Mr. Van Cleave's agent, on his effort at destruction.

Q. He said that unless he had it by the following day, Monday, it would be of no use to him? A. Yes, and I was fully determined at that time that I would not sign any such document as that.

Q. That ended all communication between you and Brandenburg, did it? A. I think so.

Q. That was the finale? You have never seen him since or heard from him since? A. Only through the newspapers on the matters about which I have already testified.

Q. He was a sort of scalawag, was he? A. Yes, sir.

Q. When you heard he was a scalawag and had the peculiar character of this paper and all the other incidents, did that not operate to raise in your mind any doubt that he really did not represent Mr. Van Cleave? A. There was no doubt in my mind that he did represent Mr. Van Cleave because he was not the only scalawag associated in the work with Mr. Van Cleave.

Q. The fact that you afterwards learned that he was a scalawag and had produced and tried to get you to sign this extraordinary paper, under the conditions and in the manner in which he was to date it back, did there enter your mind at all any doubt that he was really the special emissary of Mr. Van Cleave to procure that
statement? A. There was no doubt and is not any doubt in
1181 my mind that Brandenburg represented Mr. Van Cleave.

The other scalawags that Mr. Van Cleave had in his employ to do that same sort of work was confirmatory proof of it rather than otherwise.

MR. DAVENPORT: To so much of that answer as is irresponsible to my question and specially scandalous, I object.

The WITNESS: Such scalawags as were indicted for criminal offenses.

Mr. DAVENPORT: I object to this intrusion of your special statements in this matter in this connection. It is highly improper, Mr. Gompers.

The WITNESS: Not half so much as your introduction of these matters. Another scalawag who was expelled from the organization of his trade and who has been sued for his malfeasance in office of the organization of which he was an officer and in regard to which recovery was had, or, rather, damages awarded by the Court—such scalawags confirmed my judgment that—

Mr. DAVENPORT: To all this I object, and I shall move to strike it out as improper.

By Mr. DAVENPORT:

Q. In your statement you say, on the morning of October 27, in regard to this interview:

"I evaded the subject for a time with the statement that I realized the importance of the matter he had presented to me, but that I did not feel like giving a definite answer there and then; that after all, I had only a passing acquaintance with him, Brandenburg, and that while I had no doubt he had authority to act, yet I would
1182 want to have more direct assurance. He answered:

"Do you mean that you want to see Mr. Van Cleave personally and get the assurance from him?"

"I answered that I thought that was about the only way that I would feel warranted to act.

"He answered that Mr. Van Cleave might suspect that this was a trap. For the purpose of allaying that suspicion, I answered: 'So might I regard your proposition to me.'

Do you mean to say that at that time you had not any doubt that Mr. Brandenburg might not represent Mr. Van Cleave? A. There was no doubt in my mind. I simply wanted to cinch the fact.

Q. What was your idea as to what use could be made of this paper? Would it be to make you ridiculous in the eyes of the world, to get you to sign this statement? Was that your idea, that Mr. Van Cleave wanted this statement for the purpose of making you ridiculous? A. No, but to insure the fact of my treachery.

Q. What is there in this statement that you were asked to sign that would indicate that you were in the slightest degree treacherous to those with whom you had been previously associated? What particular line, sentence, or paragraph in it would afford any such indication as that? A. The following (reading:) "Vengeance by the law of compensation overreaches the grave, and I might undo more men a score of times than will regret my passing."

Q. Is that the only one? A. No, sir. The whole tenor of
1183 it indicated that it was in my power to "undo more men a score of times than will regret my passing." I am proud and conscious of the fact that I have the respect of a very large part of

my fellow citizens, and if, as here declared, I could undo more men a score of times that that vast number of my fellow citizens who entertain respect for me and who might regret my passing, would be for me to make a statement of such a character that would place me in the position that I could, and impliedly would were I possessed of what is regarded as ordinary vengeance, undo so large a number of men, to bring about their undoing.

Q. That is the statement which you thought could be used to your injury? A. To the injury of myself.

Q. And of others? A. And of my fellow citizens—my good name.

Q. If I understand your version of this matter correctly, this paper which you were to sign was to be doctored up in some way, with tobacco juice or something else, and stained so that it would appear to have been made in the year 1895, 12 years before the time when it was actually executed; and during all that time since you had been the President of the American Federation of Labor, occupying that position and performing all its manifold duties, and you expected, or you understood that their purpose was to get a document way back there, such as this was, for the purpose of reflecting upon those who were at present in the labor movement? A. In 1895 I was not President of the American Federation of Labor.

Q. This was to be dated back as having occurred in 1895, 1184 when you were ill at Little Rock. It was to be dated back to that time, and all the time, in the meantime, everybody would have known you had been the President of the American Federation of Labor and had been performing the duties of that office all the time since? A. At that time I was not President of the American Federation of Labor. Mr. John McBride, at the previous convention of the Federation, having been elected President, and this document—

Mr. DAVENPORT: I will ask the stenographer to read the pending question so that the witness may have it before his mind and answer it pertinently.

Mr. RALSTON: Let him complete his answer.

(At the request of witness his answer, so far as made, was repeated by the stenographer.)

A. And this document was to have the seeming basis that because I was not elected President I harbored vengeance against the labor men. Is that a sufficient answer?

Q. If that is the best you can do in answer, I shall have to be content with it. A. I will allow you to rest content.

Q. I can not get what is in your mind except as you are willing to state it. A. I am willing to answer as best I can, and to illuminate the entire subject, giving the fullest information of which I am possessed.

Q. I want to ask you another question or two in regard to this matter. I return again to the question propounded to you by Mr.

1185 Ralston: "Mr. Gompers have you had, or been controlled in any degree, by any personal feeling or malice toward Mr. Van Cleave? A. No, sir." Is that true? A. Absolutely true, sir.

Q. Nor any malice or ill will towards the Buck's Stove & Range Company? A. I have absolutely no malice in my heart or mind or make-up toward any man on earth, even my bitterest enemy; and those who know me know that to be a fact.

Q. When, in the October (1907) number of the Federationist you wrote as follows:

"They have a lawful right to do as they wish, all the Van Cleave, all the injunctions, all the fool or vicious opponents to the contrary notwithstanding.

"Wonder whether Van Cleave will try for an injunction compelling union men and their friends to buy the Buck's Stove and Range Company's unfair product?

"Until a law is passed making it compulsory upon labor men to buy Van Cleave's stoves we need not buy them, we won't buy them, and we will persuade other fair-minded, sympathetic friends to co-operate with us and leave the blamed things alone.

"Go to — with your injunctions."

"And in the same number, when you wrote these words:

"The Buck's Stove and Range Company of St. Louis (of which Mr. Van Cleave is president), will continue to be regarded and treated as unfair until it comes to an honorable agreement with organized labor. And this, too, whether or not it appears on the 'We Don't Patronize' list"——

When you wrote that were you free from all desire to injure the business of the Buck's Stove and Range Company? A. That
1186 did not occur to me—a desire either one way or another. That was an editorial expression, a statement of a fact.

(The last preceding question was repeated by the stenographer.)

A. I was. I was desirous that Mr. Van Cleave might come to an honorable adjustment of all differences with labor, and to establish more harmonious relations. That was and is now my object, as it has ever been.

Q. The question is, when you wrote those words, whether you had no desire, disposition or intention to injure the business of the Buck's Stove and Range Company? A. There was no desire on my part in regard to that.

Q. When you sent out to the 27,000 locals of the American Federation of Labor the circular letter which contained the following:

"Mr. Van Cleave, for the Buck's Stove and Range Company, brought suit against the American Federation of Labor and its Executive Council and has petitioned the Court for an injunction to prohibit the American Federation of Labor from in any way advising Organized Labor and its friends of the fact that the Buck's

Stove & Range Company is unfair to its employees and for that reason its name is published upon the American Federation of Labor, 'We Don't Patronize' list.

"The Court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove and Range Company upon the 'We Don't Patronize' list. Should we be enjoined by 1187 the Court from doing so, the merits of the case will not be altered nor can any court decision take from any man the right to bestow his patronage where he pleases."

And in the same circular, when you stated:

"Bear in mind that you have a right to decide how your money shall be expended.

"You may or may not buy the products of the Buck's Stove & Range Company.

"There is no law or edict of court that can compel you to buy a Buck's Stove or Range.

"You can not be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove & Range Company's products of its unfair attitude toward its employees and ask them to give their sympathy and aid in influencing the Buck's Stove & Range Company to deal fairly with its employees and come to an honorable agreement with the Union primarily at interest.

"It would be well for you as central bodies, local unions and individual members of organized labor and sympathizers to call on business men in your respective localities, urge their sympathetic cooperation and ask them to write to The Buck's Stove & Range Company of St. Louis, urging it to make an honorable adjustment of its relations with organized labor.

"Act energetically and at once. Report the result of your work to the undersigned.

(Signed)

"SAM'L GOMPERS.

"President, American Federation of Labor."

When you sent out this circular were you not actuated by 1188 a desire to injure the business of the Buck's Stove & Range Company? A. No, sir. The desire was to secure all the cooperation and all the influence of every man in the country to bring about harmonious relations between The Buck's Stove & Range Company and labor.

Q. When, after the injunction order had been signed by Judge Gould, in the February number of the American Federationist you published the urgent appeal, and the editorial that has been so often referred to, and in the course of it stated:

"This injunction can not compel union men or their friends to buy the Buck's stoves and ranges. For this reason the injunction will fail to bolster up the business of this firm which it claims is so swiftly declining.

"Individuals as members of organized labor will still exercise the right to buy or not to buy the Buck's stoves and ranges. It is an exemplification of the saying that: 'You can lead a horse to water but you can't make him drink,' and more than likely these men of organized labor and their friends will continue to exercise their right to purchase or not to purchase the Buck's stoves and ranges."

And further on, when you say:

"So long, however, as that company continues in its hostile attitude to labor, denying it the right to organize, discriminates against union members, and refuses to accord conditions of employment generally regarded as fair in the trade, it must expect retaliatory measures"—

Were you not actuated with any ill will towards the Buck's Stove & Range Company, or towards Mr. Van Cleave? A. I was
1189 not.

Q. Were you not? A. Wait a moment; let me finish my answer.

Q. You have answered it. A. I have not completed my answer. I was not. The statement contained in what you read was the fact that the injunction would not bolster up the business of the Buck's Stove & Range Company. That was a statement of fact.

Q. The question is whether in making that statement you were actuated by ill will. A. Not at all. I said no.

Q. And when on pages 114 and 115 of the said February (1908) number of the American Federationist you published the order of injunction of Judge Gould at length, prefacing the same with the following statement:

"In the official organ of the National Association of Manufacturers, one of the counsel for the Buck's Stove and Range Company declares that punishment for violation of the injunction issued by Justice Gould, against the American Federation of Labor, applies particularly to those within the territorial limits of the District of Columbia who violate the terms of the injunction. That those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia. Counsel for the American Federation of Labor assure us that this construction of the court's order is accurate."

In writing and publishing that statement do you say that
1190 you were not influenced by any desire to injure the business of the Buck's Stove & Range Company? A. I so state, sir. That was an editorial statement, an expression of opinion of the status of the case.

Q. When, in the editorial column of the April (1908) Federationist, you wrote as follows:

"The temporary injunction issued by Justice Gould of the Court of Equity of the District of Columbia in the (Van Cleave) Buck's Stove & Range Company of St. Louis against the American Federa-

tion of Labor, its officers and all others, has been made permanent. The case will now be carried to the Court of Appeals of the District of Columbia. It should be borne in mind that there is no law, ay, not even a court decision which can compel union men or the friends of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat."

Do you say you were not actuated with a disposition to injure the business of the Buck's Stove & Range Company when you wrote that?
A. I so say.

Q. And when in the official columns of that issue, at page 295, in an official letter addressed to the several branches and central bodies, yourself and Mr. Morrison publish the following statement:

"Bear in mind that an injunction issued by a court in no way compels labor or labor's friends to buy the product of the Van Cleave Buck's Stove and Range Company of St. Louis.

"Fellow workers, be true and helpful to yourselves and 1191 to each other. Remember that united effort in cause of right and just must triumph."

Do you say you were not actuated by a desire to injure the business of the Buck's Stove and Range Company? A. I so say. My desire was that every influence be brought to bear to bring about an honorable adjustment between the Buck's Stove and Range Company and associate labor.

Q. By bringing pressure to bear by loss of business upon the Buck's Stove and Range Company? A. By bringing pressure to bear that it would be more advantageous to all parties concerned.

Q. When, in the City of New York, in the course of a public address, you made the following statement:

"They tell us that we must not boycott. Well, if the boycott is illegal, we won't boycott. But I have no knowledge that any law has been passed or any order issued by any court compelling us to buy, for instance, a range or a stove from the Buck's Stove and Range Company. You know that myself and several are enjoined from telling you, and we are not prepared to tell you, that the Buck's Stove and Range Company is unfair. There are a number of men who have been having suit brought against them for two hundred and forty thousand dollars. That is not very much, between you and me; but a few hatters in Danbury, Connecticut, are being sued for saying that Loewe and Company, hat manufacturers, of Danbury, Connecticut, are unfair. I am not prepared to say that that is in violation--they they are unfair.

"Of course, in the case of the Buck's Stove and Range 1192 Company, if I told you that the Buck's Stove and Range Company was still unfair, when I got back to Washington tomorrow, or some place where they say people play checkers with their noses--well, as I say, I am not prepared to tell you that these things are unfair. But there is no law, no court decision that compels you to buy them, nor does any law compel you to buy anything without the union label."

Do you mean to say, when you said that, that you were not actuated with a desire to injure the business of the Buck's Stove and Range Company? A. My desire was to promote the welfare of the working people of our country and to bring to an honorable adjustment the differences between labor and the Buck's Stove and Range Company and the Loewe Hat Manufacturing Company; that in any event it was in the exercise of my right of free speech and a free press.

Q. Your answer is not responsive to the question. A. My desire was not to injure either of these firms.

Q. Or by means of loss of business to bring pressure to bear to bring them to terms? A. No.

Q. And when, in the editorial columns of the May (1908) number of the American Federationist, you published the following statement:

"I want to assure you on my word of honor that so long as I live I will never buy a Loewe hat or a Buck's stove or range until these gentlemen come into agreement with organized labor and grant us conditions of fairness. Then they will get support and help.
1193 Until then, you may call it by any other name—boycott or no boycott—but I won't buy your hats anyhow."

A. And I won't.

Q. Do you say you were not actuated by any desire to injure the business of the Buck's Stove and Range Company? A. Not to injure the business. My desire was to declare that I would not buy a Buck's stove or range or a Loewe hat, and I want to repeat, with as much emphasis as I can with dignity bring into these proceedings, that I won't, until they come into an agreement with labor.

Q. When, on the 1st day of May, 1908, in the City of Chicago, in the course of a public address before a large gathering of working people, you made the following statement:

"I might say just parenthetically about the hatters' case that you are not now permitted to boycott the Loewe hats, but I want to call your attention to the fact that there is no law compelling you to wear a Loewe hat, nor has any judge issued a mandamus compelling you to buy a Loewe hat. That applies equally to Mr. Van Cleave's stoves and ranges. And, by the way, I don't know why you should buy any of that sort of stuff. I won't; but that is a matter to which we can refer more particularly in our organizations."

Do you say, when you made that statement, that you were not actuated by a desire to injure the business of the Buck's Stove and Range Company? A. I desire to say that my desire was to exercise all the power and influence that could be brought into action to come to an honorable adjustment of all controversial matters
1194 between those companies and labor.

Q. Now, Mr. Gompers, when in the June (1908) number of the American Federationist you published the statement to which I previously called attention, as made in Chicago, do you mean to say that you had no desire to injure in any way the business of the

Buck's Stove and Range Company? A. I answer that my desire was that an honorable adjustment might be reached.

Q. Is that the best answer you can make to my inquiry? A. Yes, sir.

Q. You understand the question. A. I think I do.

Q. And what it calls for? A. I think so.

Q. When, in the July (1908) number of the American Federationist, at page 531, under your name, you published the following statement:

"The Supreme Court of the District of Columbia has made permanent the injunction issued by Justice Gould enjoining the American Federation of Labor, its officers, its affiliated unions and their members and friends from declaring that the Van Cleave Buck's Stove and Range Company of St. Louis is on the unfair list of the American Federation of Labor or the publication of that statement in the American Federationist. An appeal will be taken to the Court of Appeals of the District of Columbia, and, if necessary, to the United States Supreme Court. The injunction does not compel anyone to buy the Van Cleave Buck's stoves and ranges, nor has any decree been issued compelling anyone to buy Loewe's hats."

1195 In making this last statement—"The injunction does not compel anyone to buy the Van Cleave Buck's stoves and ranges, nor has any decree been issued compelling anyone to buy Loewe's hats"—were you not actuated by a desire to injure the business of the Buck's Stove and Range Company? A. No. It was a statement of a legal fact.

Q. In making the statement of this legal fact, then, was it not for the purpose of injuring the business of the Buck's Stove and Range Company?

Mr. RALSTON: Was not that argument all gone over in chief?

(At the request of witness the question was repeated by the stenographer.)

A. My desire was to state a fact and the legal aspect of the injunction, discussing it editorially, and our purpose to take an appeal to the higher courts from the decision rendered in the injunction proceedings.

Q. When, in the September (1908) number of the American Federationist, at page 720, you published the following statement:

"I notice that President Gompers, Secretary Morrison and Vice President John Mitchell have been haled to court charged with violating the celebrated injunction order of Judge Gould. Money makes the mare go, and Mr. Van Cleave's money is making this contempt case go, but we have had Van Cleaves before and will have them in the future and labor will rise in its might and crush Mr. Van Cleave and all his money that may work now or in the future for the purpose of restricting labor in its fundamental rights of free speech and free press."

1196 I say, in publishing that statement, was it not done for the

purpose of injuring the business of the Buck's Stove and Range Company? A. That from which you read is one of a series of contributed articles in response to my request to a number of men as to their expression of opinion upon labor's political duty in the present situation in which labor finds itself. I wrote the letters to a number of gentlemen——

Q. Allow me to interrupt at this point—— A. Let me finish my answer. Among them, the gentleman who wrote the article from which you quote an excerpt. I did not see the contributed articles until after they were in print.

Q. Do you mean in the proof. A. In the completed printed American Federationist; but I am willing to assume whatever responsibility devolves upon the editor or publisher of that magazine and its contents.

Q. Is that the best answer you can make to my question? A. It was published in the American Federationist as a part of the contributed article, among about 24 contributed articles upon the subject of labor's political duty in the present situation in which the working people find themselves.

Q. The Buck's Stove and Range Company had come to the District of Columbia and asked relief from the performance of certain acts on the part of yourself and others, and for protection from the performance of such acts. You filed your answer. Testi-

1197 mony was taken on both sides in regard to the matter and the

Court found that you and others were engaged in a malicious conspiracy to injure the business of the Buck's Stove and Range Company. Now, in pursuing the course you have pursued since, notwithstanding the facts found by the Court, do you say you are not actuated by a desire to be allowed to continue the same things? A. That will be determined, whether I am allowed or not, by the upper courts.

Q. I think that is all. A. What I published and what I orally stated is in the exercise of the Constitutionally guaranteed right of every citizen, the right of free press and free speech, and which no injunction has the right to curtail or invade or abridge.

Q. In prosecuting this matter was it your desire to have the opportunity to continue to do such things? A. The right to exercise free press and free speech; yes, sir.

Recross-examination:

Mr. RALSTON: Before commencing the recross examination, I want to ask if Mr. Davenport will voluntarily produce certified copies showing the various payments made by Mr. Van Cleave or by the American Industries, or directly or indirectly on behalf of either of them, to Mr. Broughton Brandenburg, in the months of September, October and November, 1907, and relieve us from the necessity of taking proof?

Mr. DAVENPORT: No, I will not. I know of none such. I have not been advised of any such, and if there were any such, 1198 for the reasons that I have hitherto stated, the grounds of objection that I have made to the testimony and the exhibits

offered by you, I object to the whole matter as immaterial, irrelevant, impertinent and as having no bearing whatever upon the question at issue in this case, which is whether or not these respondents have violated this injunction order by doing the acts set forth in the complaint.

Mr. RALSTON: Then I understand that even if you know, or knew, that those vouchers and records existed, you will refuse to produce them?

Mr. DAVENPORT: I would refuse to produce them, but I have no knowledge of any such.

Mr. RALSTON: Then we will have to prove them in another way, and not through any voluntary action on your part.

Mr. DAVENPORT: Is that a question or a remark?

Mr. RALSTON: That is a remark, if you will; unless you choose to take it as a question.

By Mr. RALSTON:

Q. Mr. Gompers, do you know if this Mr. Brandenburg, to whom you have alluded, is the gentleman who is now charged in the New York World, and probably in other papers, on the apparent authority, as its base at any rate, of a letter from the executor of the estate of Grover Cleveland, with having forged or manufactured a recent letter or statement purporting to have been written by Mr. Grover Cleveland, and which is used as the basis of an attack upon a Presidential candidate?

Mr. DAVENPORT: To this question I interpose the objection that it is immaterial, irrelevant, impertinent and incompetent, and I shall ask to have the same stricken from the record and the costs thereof imposed upon the defendants.

A. It has.

By Mr. RALSTON:

Q. I note that in the New York Herald of this morning Mr. Brandenburg is quoted as making the following statement:

"Mr. Gompers came to me while I was at the Hotel Victoria one day. I was preparing a series of articles on labor leaders, and I had a mass of very damaging material. Mr. Gompers endeavored to bribe me, instead of me trying to bribe him. He and his agents kept after me for a month to get me to accede to some proposition. At the end of a month Mr. Gompers and I met again at the Hotel Victoria, and I said things to him then which put a stop to his efforts to win me over."

Did you make any attempt to bribe Mr. Brandenburg? A. Never. It was a physical impossibility.

Mr. DAVENPORT: To this I interpose the same objection, and shall make the same motion.

A. (Continuing:) It was a physical impossibility both as to time as well as to means.

By Mr. RALSTON:

Q. Did you seek any interview with Mr. Brandenburg? A. Never.

Q. Did you have any idea of seeing him until he presented himself to you? A. No, sir.

Q. In your interview with him did Mr. Brandenburg inform you that he had a mass of damaging material against you? A. He did.

1200 Q. Did he tell you what was proposed to be done with it unless you agreed to the conditions? A. He did.

Q. What was that course? A.

Mr. DAVENPORT: Has not the witness been examined and cross-examined as to that?

Mr. RALSTON: The question has not been asked.

A. He did, in the form of statements of men and sworn affidavits of men that a number of leaders in the labor movement, including myself, were both immoral and financially dishonest.

By Mr. RALSTON:

Q. These conversations and communications occurred in September and October, 1907, did they not? A. They did, sir.

Q. Do you recollect the date of the last communication? A. One of October 25, 1907.

Q. What was that communication? You may read it. By the way, was it in typewriting? A. Yes, sir.

Q. Signed in typewriting? A. Yes, sir.

Q. Read it. A. (Reading:)

"Telephone 1978, Grammercy.

"Telephone 1978, Grammercy.

"71 IRVING PLACE.

1201 "MY DEAR MR. GOMPERS: Not having known where to reach you I have not been able to send you word, and so am leaving this to await your arrival. As soon as you receive it call me up and we will arrange to get together. By all means do not take on so many engagements that our opportunities for conversation will be brief, for the situation has developed a mutual importance that can scarcely be estimated too highly.

EDGEFIELD."

Q. Do you remember where you received that? A. At the Hotel Victoria, New York City.

Q. What date? A. I think the morning of my arrival in New York City, the morning of October 26, 1907.

Q. Did you pay any attention to that communication? A. I did not.

Mr. DAVENPORT: To all this evidence I interpose the same objection and give notice that I shall make the same motion to have it stricken from the record.

By Mr. RALSTON:

Q. What is this paper I now show you (handing paper to witness)? A. (After examination). A copy of American Industries, of November 1, 1907, the official organ of the National Association of Manufacturers, of which Mr. Van Cleave is President.

Q. What is the title of the article to which I call your attention? A. (Reading:) "The 'System' of Organized Labor," with the further sub-head: "As a direct result of its present 'System,' the American Federation of Labor has become a self-perpetuating autocracy with exceptional opportunities for individual gain. The following article indicates certain specific examples of the working of this 'System' which from the point of view of employers and of honest labor men is one of the chief obstacles in the way of industrial peace."

Q. State whether or not that article is an attack upon yourself? A. It is.

Q. Then within a week after your last communication from Mr. Brandenburg, the American Industries, as he had promised, opened upon you? A. That was an issue of American Industries of the week following the interviews that Brandenburg had with me.

Q. State whether that article is signed? A. It is not.

Q. Are all the other leading articles in the magazine signed? A. They are usually, or the writer's name given.

Q. I am referring to the other leading articles in that particular issue? A. They are.

Mr. DAVENPORT: Do you propose to offer that and file it?

Mr. RALSTON: Yes, sir.

Mr. DAVENPORT: What is the pertinency of this evidence?

Mr. RALSTON: It is very pertinent to this examination.

Mr. DAVENPORT: Does it have any bearing at all upon the question of whether or not the defendants have violated the injunction in regard to which they are brought into court?

Mr. RALSTON: It bears upon the relation between these parties.

1203 By Mr. RALSTON:

Q. Do you know who wrote that article, if not Mr. Brandenburg? A. In my opinion it was Mr. Van Cleave or some one for him.

Mr. DAVENPORT: The question is, do you know?

The WITNESS: I do not know of my own knowledge.

Mr. RALSTON: I offer this in evidence.

(The magazine and article referred to were received in evidence and marked "Exhibit A. H. No. 58.")

Mr. DAVENPORT: I move to strike this exhibit, and the testimony relative thereto, from the record, as impertinent, irrelevant, immaterial. I object to it on those grounds, and I shall move the Court to strike it from the record and to put the costs thereof on the respondents.

By Mr. RALSTON:

Q. Was that article followed up by other like attacks upon you? A. Yes, sir.

Q. Have you one in your hand? A. I have.

Q. What is the date? A. November 15, 1907.

(The exhibit referred to was received in evidence and marked "Exhibit A. H. No. 59.)

Mr. DAVENPORT: I object to the same as impertinent, irrelevant and immaterial, and shall move the Court to strike the same from the record and put the costs thereof upon the defendants.

1204 By Mr. RALSTON:

Q. Have you, from the time of your last interview to the present, seen Mr. Brandenburg? A. I have not.

Q. What was the first written communication you had from Mr. Brandenburg?

Mr. DAVENPORT: Has he not gone all over this in a previous examination?

Mr. RALSTON: I want to introduce these exhibits which have not heretofore been introduced.

A. That card (indicating).

Mr. RALSTON: We will offer in evidence a copy of the card, not filing the original, and will ask that the same be made an exhibit.

(The copy of card referred to was received in evidence and marked "Exhibit A. H. No. 60.)

By Mr. RALSTON:

Q. I will now ask you to identify the paper which is handed to you. A. It is a memorandum which I received in an envelope at the Hotel Victoria, and on the Victoria Hotel letter-head, unsigned, and handed to me by the hotel clerk the evening of the first day that I saw Mr. Brandenburg, as I was at the doorway of the Victoria Hotel, and as I was about to emerge from the hotel. It reads: "It is most important that I see you again before I go to Washington. Call room 608 this hotel."

Q. Was that Mr. Brandenburg's room? A. Yes, sir.

1205 Mr. RALSTON: I will offer in evidence a copy of this note, retaining the original which we will produce when necessary.

(The copy of the note referred to was received in evidence and marked "Exhibit A. H. No. 61.")

By Mr. RALSTON:

Q. When was the next communication? A. One I received on September 30, 1907.

Mr. RALSTON: I will offer that communication, or a copy of it, in evidence, together with a copy of the envelope in which it came. Mr. Gompers, is that the envelope in which it came? A. Yes, sir; on the envelope is, "The Victoria Hotel, of New York City." It also has the postmark, Pennsylvania Terminal, Jersey City, September 29, 1 a. m. 07.

The letter reads as follows:

"Referring to the uncompleted conversation with the gentleman at the Victoria, he begs to say in passing through Washington that

reasons of the utmost expediency which can not be discussed here, exist for your coming *alone* for a day or two of recreation to Edgefield South Carolina where this gentleman alone will expect your arrival at some time within the next ten days. Again he begs to say that nothing you could possibly do would have a more satisfactory result for all concerned. The hunting and fishing in that vicinity are very fine."

(The copy of letter and envelope referred to were received in evidence and marked "Exhibit A. H. 62.")

1206 By Mr. RALSTON:

Q. Did you receive any further communication from him? A. I did.

Q. Will you read it please? A. It is a telegram. (Reading:)

"SALISBURY, N. C., Oct. 12, '07.

Samuel Gompers, 425 G street, Wash'n, D. C.:

"Arrive eight Sunday morning, leave nine aboard Penna car Caliph.

(Signed)

EDGEFIELD."

Q. "Edgefield" was the name which he had given himself in this transaction, as I understood it? A. Yes, sir.

Mr. RALSTON: I offer this in evidence.

(The telegram referred to was received in evidence and marked Exhibit A. H. No. 63.)

By Mr. RALSTON:

Q. Does that complete your correspondence? Those are all the communications you received from Mr. Brandenburg? A. I think so.

Mr. DAVENPORT: I want to interpose a special objection to these exhibits, and the testimony of Mr. Gompers relative thereto, on the ground that the same are immaterial, irrelevant, improper and incompetent, and give notice that I shall move to have the same stricken from the record and to impose the costs thereof upon the defendants.

By Mr. RALSTON:

207 Q. Mr. Gompers, who first wrote in this matter, Mr. Brandenburg or yourself? A. Mr. Brandenburg, both at the hotel and to me here.

Q. Who sought these interviews? — Mr. Brandenburg. I did not know him. He accosted me when I did not know him or recognize him.

Mr. DAVENPORT: Has not this all been gone over in previous direct and cross examinations? A. No. It has not appeared that he spoke to me first. I did not speak to him first and did not know him, did not recognize him until he made himself known. He wrote me first.

By Mr. RALSTON:

Q. Did you ever offer him money to suppress the proposed publications he had in mind? A. I did not; that would be a physical impossibility.

Mr. RALSTON: That is all.

Mr. DAVENPORT: To all this testimony I interpose the same general objections I have made heretofore, and shall ask to have the same stricken from the record and to put the costs thereof upon the defendants. I have a single question.

Redirect examination.

By Mr. DAVENPORT:

Q. Among the labor papers, or labor press, are you acquainted with a paper, published in Akron, Ohio, called "The People?" A. I see it sometimes.

Q. You know it as such? A. Yes, sir.

Q. I have here a clipping from "The People," of Akron, 1208 Ohio, September 18, 1908, which reads as follows:

"The Gompers, Mitchell, Morrison contempt case is now being heard in Washington. While it is going on it will not be unlawful to say that every one and all of our friends can boycott the Van Cleave Buck's stoves and ranges all they please."

I desire to insert that at this point in the hearing.

Mr. RALSTON: I offer the general objections to it.

Mr. DAVENPORT: That completes the examination of Mr. Gompers, I suppose, for the present.

Mr. RALSTON: I did not, I think, in my call on you some moments ago, make any specific reference to the vouchers, etc., of the Century Syndicate, with which Mr. Van Cleave is connected. I intended to make the call complete enough to cover everything. I understand that your declination covers everything tending to show payments to Mr. Brandenburg?

Mr. DAVENPORT: My ignorance thereof, and my objections thereto, apply equally to this call as they did to what you said before.

Mr. RALSTON: And your refusal?

Mr. DAVENPORT: My refusal? Well, if you so term it. This mass of irrelevant and immaterial matter has become already so extensive that it would be an imposition upon the Court and upon the parties. There is nothing in this case that it can possibly affect in any way. The sole issue here is, did Mr. Gompers, Mr. Mitchell and Mr. Morrison violate this injunction and the permanent 1209 decree, and all this matter is wholly irrelevant thereto.

Mr. RALSTON: You take shelter behind the objection.

Mr. DAVENPORT: I take no shelter at all; I need none.

Mr. GOMPERS: I desire that the attention of the Court be called to the fact that the receipts and sources from which the receipts are received, the moneys received by the American Federation of Labor, and the expenditures, and the purpose for which the expenditures are made, and the parties to whom the payments are made, are all

of them published in the American Federationist; and that there are no facilities or opportunities for the Court or for the American Federation of Labor, or its representatives, to receive anything like any information of any sort as to the receipts and expenditures of the National Association of Manufacturers or which Mr. Van Cleave is president.

SAM'L GOMPERS.

Subscribed and sworn to before me this 26th day of September, 1908.

ALBERT HARPER, *Examiner*.

MR. DAVENPORT: I now offer in evidence all the exhibits to the pleadings, in this cause, and the several exhibits, and documents mentioned in paragraph V of the petition filed therein on the 20th day of July, 1908, under which the present proceedings are being had, together with the several exhibits filed with said petition.

Thereupon, the hearing was adjourned subject to the call of the Examiner.

ALBERT HARPER, *Examiner*.

1210 In the Supreme Court of the District of Columbia.

In Equity. No. 27305.

THE BUCK STOVE & RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

By virtue of order of reference to me passed September 9, 1908, and at the request of Joseph J. Darlington, Esq., of solicitors for complainant, I have this day fixed Thursday next, October 29, 1908, at three o'clock in the afternoon of that day, and his law office, No. 410 Fifth Street, N. W., in the City of Washington, District of Columbia, as the time and place when further testimony on behalf of the complainant in the above-entitled cause will be taken before me.

ALBERT HARPER,

Examiner in Chancery.

October 27, 1908.

To Messrs. Ralston & Siddons, of solicitors for defendant:

Take notice that at the time and place fixed in the foregoing order I shall take further testimony on behalf of the complainant in the above-entitled cause.

J. J. DARLINGTON,
S.,

Of Solicitors for Complainant.

October 27, 1908.

Service acknowledged this 27th day of October, 1908.

RALSTON & SIDDONS,

Of Solicitors for Defendant.

1211

WASHINGTON, D. C.,

October 29, 1908—3 o'clock p. m.

Met pursuant to foregoing notice.

Present for the complainant: J. J. Darlington, Esquire and Daniel Davenport, Esquire.

Present for the defendants: J. H. Ralston, Esquire.

Stipulation.

It is admitted by counsel that in a public address delivered at Cross Street Hall in Baltimore on the evening of October 26, 1908, before an assemblage of workmen, the defendant Samuel Gompers used the following language:

"The injunction issued against me by Judge Gould was based on Judge Taft's decisions. By that injunction I am restrained from talking to you about this case. No labor leader can mention it in speech or circular. I am enjoined from telling you I won't buy a Bucks Stove or range. But I won't buy one just the same. I am enjoined from telling you there is no law compelling you to buy one; but there isn't such a law.

"Because of this case I am on trial, and may have to go to jail. There is no fun in going to jail, and I don't want to go, for no man would feel more keenly the sting of having his liberty restrained. But the whole world would be a narrow cage were I denied the freedom of speech. I say these things with a full consciousness
1212 of what the responsibility may be. But jail or no jail, I'm going to discuss the principles of liberty."

Mr. RALSTON: I reserve to the foregoing all objections as to its competency, materiality and relevancy, which objections will be insisted upon at the hearing.

Stipulation and Admission.

It is further admitted in evidence that in a book written and published by John Mitchell, one of the defendants herein, entitled "Organized Labor, its Problems, Purposes and Ideals, and the Present and Future of American Wage-earners," published in 1903, the said defendant John Mitchell stated as follows at page 336 thereof:

"Moreover, when an injunction whether temporary or permanent, forbids the doing of a thing which is lawful, I believe that it is the duty of all patriotic and law-abiding citizens to resist, or at least to disregard the injunction. It is better that half the workmen of the country remain constantly in jail than that trial by jury and other inalienable and constitutional rights of the citizens of the United States be abridged, impaired, or nullified by injunctions of the courts."

Mr. RALSTON: We reserve to the foregoing all objections as to its competency, materiality and relevancy, which objections will be insisted upon at the hearing.

Stipulation and Admission.

It is further admitted that on December 12, 1906, at a public meeting of the National Civic Federation, held in the City of New York, of which Federation John Mitchell, the defendant herein is Vice-President, the said defendant John Mitchell made the following statement:

"Do you know that in labor disputes, when the proposition to arbitrate is made, very often—indeed almost generally—the workmen will make the reservation that the question to be arbitrated shall not be submitted to a Federal judge? I do not share fully in these apprehensions, but the very fact that workingmen do express a fear of the impartiality of the Federal judiciary is in itself a matter of grave concern, not alone to those who have suffered from the injunction, but to the entire people of this country. Men do not lose confidence without cause, or at least without the belief that they have cause. So many injunctions have been issued, so many laboring men have been incarcerated because of the violation or alleged violation of these injunctions—not because of the commission of crime, not because they have violated any law of the land, but because they have insisted upon doing those things which they have a legal and a constitutional right to do.

"I wish to say for myself—and I yield to no men living in loyalty to this country—that if a judge were to enjoin me from doing something that I had a legal, a constitutional, and a moral right to do, I should violate the injunction. I shall, as one American, preserve my liberty and the liberties of the people even against the usurpation of the Federal judiciary, and in doing this I shall feel that I am best serving the interests of my country.

"It is indeed unfortunate that in recent years the courts have gone so far in the exercise of their equity power. It is presumed that injunctions shall be issued only in cases where there is no adequate remedy at law. It is presumed that they are issued in cases where there is danger of the infliction of irreparable injury. In a coal strike in West Virginia, for instance, an injunction was issued; this injunction restrains the men from the commission of crimes and also from the performance of acts which are entirely legal within themselves. The men proceed under the direction of their attorneys to do only those things that they have a legal right to do; and they are called into court—they are charged with no crime, they are simply asked, have they violated that injunction? They are permitted to make no defense. They, as truthful men, must plead that they have violated the injunction, that they have walked upon the highway, that they have spoken to the men who wanted to work; the consequence is that they are sentenced to prison, not for violating the law, not for the commission of any illegal act, but because they have done those things which they have a legal right to do; and they are sent to prison without a trial by a jury of their peers. It is to this phase of the injunction that we take exception."

That this statement was published in the National Civic Federation Review, the official journal of the National Civic Federation, in

1215 the March-April issue, 1907, at page 4 thereof; and that the same statement was published in the New York Times of December 13, 1906, and in the New York Tribune of the same date.

Mr. RALSTON: We reserve to the foregoing all objections as to its competency, materiality and relevancy, which objections will be insisted upon at the hearing.

Examiner HARPER: Is there anything further on behalf of the respondents?

Mr. RALSTON: The respondents announce that no testimony will be taken on their behalf.

Thereupon the hearing was adjourned.

ALBERT HARPER, *Examiner*.

1216 *Opinion.*

Filed December 23, 1908.

In the Supreme Court of the District of Columbia.

THE BUCK'S STOVE & RANGE COMPANY

vs.

THE AMERICAN FEDERATION OF LABOR ET AL.

Proceedings in Contempt Against Samuel Gompers, Frank Morrison, and John Mitchell.

The Defendants, Samuel Gompers, Frank Morrison, and John Mitchell are charged with wilfully violating the terms of the preliminary injunction herein heretofore issued after a hearing before Mr. Justice Gould.

The matter of the charges is not -- be understood or intelligently determined without a comprehension of the status of persons and conditions at the time the injunction issued, and these in turn can only be come at by a good understanding of the nature and cause of the original controversy between the parties and the situation which had developed from the confessed boycott, established against the plaintiff and its customers by the defendants and others.

Conditions Antecedent the Injunction.

1217 Since the plaintiff, with headquarters in St. Louis, Missouri, has been engaged in the manufacture of stoves and ranges, having at the institution of this suit an invested capital of about \$950,000, customers in all the territories and in nearly all the States of the Union, gross sales amounting to about \$1,250,000 annually, nine-tenths of its product being disposed of in the course of Interstate Commerce to customers in the territories and in states other than Missouri.

For twenty-five years it had operated as a ten-hour shop; that is to say, the men and machinery in all departments worked ten hours per day. At the time of filing the bill it comprehended seven departments employing 745 men as follows:

Moulding Department	300
Cleaning Department	25
Mounting Department	75
Steel Range Mounting Department	50
Nickel or Polishing Department	75
Enameling Department	45
Shipping Department and Miscellaneous	175

Plaintiff had always maintained "An Open Shop," that is, a shop where both union and non-union men were employed without discrimination for or against either class. No employee had ever been discharged because of membership in any union, nor had employment of men ever been refused or influenced by that consideration. Of the 745 men, between 400 and 500 were members of various Labor Unions and of the 75 engaged in the Polishing Department, 36, constituting a majority of the polishers, were members of the Metal Polishers', Buffers, Platers, Union No. 13 of St. Louis. 1218 This Union No. 13 was one of upwards of 130 local unions which together composed the Metal Polishers', Buffers, Platers, Brass Molders and Brass and Silver Workers International Union of North America.

Plaintiff was member of an Association of Stove Manufacturers, called The Stove Founders National Defense Association. There existed an agreement of long standing between the Stove Founders National Defense Association and the Metal Polishers', Buffers, Platers, Brass Molders and Brass and Silver Workers International Union of North America providing for the settlement of all disputes between a member of the Stove Founders National Defense Association and a member of the Union by a Conference Committee, and that the decision should be binding upon each party for a term of twelve months, and providing further, "that pending the adjudication by the presidents and Conference Committee, neither party to the dispute shall discontinue operations, but shall proceed with business in the ordinary manner." Many grievances have been adjusted under this agreement, its provisions having been faithfully observed and kept by the Stove Founders National Defense Association, and by the plaintiff as a member.

The 36 metal polishers in the employ of the plaintiff were "piece workers;" that is, they were paid by the piece, and earned from \$4.00 to \$5.25 per day, according to their individual skill and the number of hours worked.

In November 1905 it first came to the attention of J. W. Van Cleave, President of the plaintiff, that metal polishers were leaving their work before quitting time, some of them as early as an 1219 hour and a half before, at whatever time they happened to finish a job. Shortly afterward the works were closed down

for annual repairs and inventory and upon the day of closing, the President, Van Cleave, called together all polishers in the Polishing Department and addressed them thus: "I called their attention to what had come to my notice and told them that we would not permit that; that our shop was then and always had been running 10 hours; that all of our machinery ran ten hours; and that I called them there for the purpose of informing them that when we started up in the beginning of 1906, that every Department would have to work, and every man in every Department would have to work ten hours."

"I also called their attention to the fact that it had been reported to me that the Polishers' Union had put on a wage limit; that is to say the amount per day that each man should earn and then quit work. I told them that if that was true, and that the men were submitting to that, that was robbing their own wives and children, and that we would not submit to it; that God had never made any two men with the same ability, and, therefore, each man must earn all he could in the shop, doing all the work he could, and, it being piece work, he would thereby earn more or less according to his ability."

"I told these men also, that if they were not satisfied with our rules and our shop conditions, that I would give them six days' notice three weeks before we opened shop in 1906, in order that they might get other places if they wanted to; but, if they returned to work they would have to return under the rules of our shop, and not under any rules that they might make."

Upon the reopening of the works in January 1906 notices were posted in its Polishing Department by the plaintiff that all its employes were required to work ten hours a day during the year 1906. All of these men returned to work, accepted their old places and worked continuously ten hours a day until August 27th, earning large wages. At five o'clock on the 27th, one of them by name Ford, gave a pre-arranged signal to quit work; the men immediately left their wheels, put up their work and left the Department. This action was not only in violation of the shop rules, but a breach of the agreement between the Union and the Defense Association, and was taken without notice to or conference with the plaintiff or Van Cleave its President. Upon the morning of the 28th the men all returned to work and all were permitted to resume work save Ford and Jansen who were discharged for having incited the men to break the shop rules the day before. At five o'clock upon the second day the signal to quit work was again made by one Brindle, and the procedure of the preceding day repeated. Upon the morning of the 29th the men returned to work; all save Brindle were permitted to resume, he being discharged as Ford and Jansen had been, for inciting the men to break the shop rules. Upon the discharge of Brindle, the foreman of the Plating and Polishing Department was straightway informed by a workman, Poe, that if Brindle, Jansen and Ford were not reinstated before eight o'clock the men would leave the shop at that hour. They were not reinstated and at eight o'clock the 36 union polishers struck and left the shop in a body. The strikers threw a cordon of pickets around the

plant of the plaintiff, did what they could to prevent the plaintiff from carrying on its business, and what they could through violence, intimidation and otherwise to prevent the places which they abandoned in the factory from being filled by other polishers, but their efforts in this respect were unsuccessful. Thereafter the Local Union No. 13 declared a boycott against the plaintiff's product and asked its endorsement and declaration of boycott from the Central Trades and Labor Union of St. Louis, the Metal Polishers, Buffers, Platers, Brass Molders and Brass and Silver Workers International Union of North America. Meanwhile Union men continued in the employ of the plaintiff drawing pay for making the very product which labor unions were boycotting outside the doors. On October 24th, David Kreyling, Secretary of the Central Trades and Labor Union, St. Louis, Edward Lucas, member of the Metal Polishers' Union, St. Louis, and Mr. Bechtold, Secretary of the Metal Trades Council, St. Louis, had called together at the office of the plaintiff, were received by its President, Van Cleave, and a conference was there had.

A stenographic report of this conference spreading over nine typewritten pages is appended to this opinion; (App. B.) Its significance is to show that before these three labor unions endorsed the boycott that they knew that the Metal Polishers had never secured the nine hour day and they were informed of the falsity of its position; that they understood that the 36 metal polishers had violated the shop rules and broken the agreement with the Defense Association, and its further significance is to tie the International Iron Molders Union of North America to the distortion appearing in statement of grievances laid before the Executive Council of the American Federation of Labor as a basis for its endorsement of the boycott, and signed by this same Bechtold himself as its Secretary and Treasurer.

"About August 1st, 1906, the Buck's Stove & Range Company attempted to force the metal polishers to resume the ten hour work-day after enjoying the nine hour work-day for a period of eighteen months, and are still making every effort within their power to adjust their grievance. Mr. J. W. Van Cleave, President of the Citizens' Industrial Alliance, also president of the Manufacturers' Association, enjoys a reputation equal to that of Parry and Post. He is president of the Buck's Stove & Range Company and *absolutely refused to deal with a committee composed of David Kreyling, Business Agent of the Central Trades & Labor Union of St. Louis, Edward Lucas, a member of the Metal Polishers and myself, stating that he was a member of the Founders' National Defense Association and that his Association acted for him in such matters.*"

The boycott was endorsed by each of these three unions shortly after this conference.

No question is made about the truth of any of the foregoing. No violence was offered by the defendants in gainsay or in contradiction. Manifestly no boycott based on such a foundation could ever hope for even the toleration, much less the support of the friends of organized labor or of even the mass of Labor men themselves, as seems to have been foreseen by the promoters of

this particular enterprise; for the thousands of circulars distributed amongst the public and the customers of the plaintiff generally, stated a case of deceit and falsity, a case that had no existence and never had had; thus:

"To whom it may concern, Greeting:

"The Metal Polishers and Buffers Union 13, have been on strike at the Buck's Stove & Range Company, 3500 North Second Street, St. Louis, Missouri, since August 27th, 1906. The polishers in the employ of the Buck's Stove & Range Company have been working the 9 hour day for 18 months; this firm not being content with having peace and harmony exist, insisted on having the men return to the ten hour day. This the Metal Polishers' Union objected to, knowing that if the Buck's Stove & Range Company were allowed to place their polishers back on the 10 hour day, it would be only a matter of a short time before the other firms where our members are working the nine hour day would adopt the same method. This firm has been placed upon the 'unfair' list of our International Union. The Central Trades and Labor Union, and the Metal Trades' Council of St. Louis and vicinity, have also placed said firm upon the 'unfair' list or 'We-don't-Patronize' list. This circular is being sent to inform the dealers who handle the product of the Buck Stove & Range Company of the unfairness of this concern. We trust
1224 that if your concern is handling any of the products of said firm you will cease doing the same, thereby assisting the Metal Polishers' Union against this unfair firm.

"Thanking you for any assistance rendered our organization in this matter, and assuring you that if at any time the favor can be returned, we will gladly do so,

Respectfully,

METAL POLISHERS' AND BUFFERS
UNION, No. 13,
1310 Franklin Avenue, St. Louis, Mo."

Although fully informed at the conference with Van Cleave and otherwise that the plaintiff has never operated any department on a nine hour scale, knowing not only that the polishers had never secured a nine hour day, but knowing that they had failed in a contention for it before the tribunals constituted by the joint agreement between the Defense Association and the union, knowing that the members of Union 13 had violated that agreement by striking, this same International Union, together with the aforesaid Metal Trades Council, and Central Trades and Labor Union, approved the following untruth and spread it broad-cast in circular form, together with other official notices of the boycott.

Metal Polishers, Buffers, Platers, Brass Molders and Brass and Silver Workers' Union of North America.

Affiliated with American Federation of Labor.

An Injury to One is the Concern of All.

"To Organized Labor and Friends, Greeting:

"On August 29th, 1906, the Metal Polishers, Buffers and
1225 Platers of Local Number 13 of St. Louis, employed at the
Buck's Stove & Range Company, were compelled to strike
on account of the management of said firm insisting on the polish-
ers, buffers and platers in their employ returning from the nine
hour to the ten hour work day. In the month of June, 1904, the
members of the above named union employed at the Buck's Stove &
Range Company secured the nine hour work day. After working the
nine hour day for eighteen months, or until January 1st, 1906, a
notice was posted in the Polishing Department informing the men
that on and after January 1st, said department would run ten hours
a day.

"When the men returned to work after said date, they immediately
notified the firm that they would work the ten hour day under pro-
test, or until such time as our International Union and the Stove
Founders' National Defense Association, with whom we have a na-
tional agreement could agree upon a settlement, and after several
conferences, between our International Union and said Association
had been held, and being unable to arrive at a settlement, the above
action was taken.

"J. W. Van Cleave, president of said concern, is also president of
the Citizens' Industrial Association of this City. "His sole ambition
is to crush the labor unions in general." Metal Polishers' Union
Number 13 has placed said firm upon the 'unfair' list, and their ac-
tion has been endorsed by the International Union of Metal Polish-
ers, Buffers, and Platers, the Central Trades and Labor Union, and
Metal Trades' Council of St. Louis and vicinity. We sincerely trust

1226 that your organization will render all moral assistance in your
power in giving this 'unfair' firm as much publicity as pos-
sible, and also appoint committees to visit dealers handling
stoves and ranges of said firm, and request them to cease handling
said goods, and also have them write the firm a letter to that effect.

"Do not file this circular, but appoint your committees immedi-
ately, as a victory in this fight means a great deal to organized labor
in general, and a blow to the Citizens' Industrial Association.

"Thanking your organization in advance for this favor, we remain,
Fraternally and sincerely yours,

(Signed) "METAL POLISHERS, BUFFERS AND
PLATERS' UNION, No. 13."

"[Seal of Metal Trades' Federation of North America.
Metal Trades' Council No. 1 of St. Louis and Vicinity.]

"[Seal of Central Trades and Labor Union of St. Louis and
Vicinity.]

'P. S.—Any further information desired will be cheerfully furnished by addressing Metal Polishers, Buffers and Platers Union, No. 1310 Franklin Avenue, St. Louis, Mo."

Further Endorsement of the Boycott.

The American Federation of Labor of which Samuel Gompers is President, and Frank Morrison Secretary, is a federation of Various Labor Unions numbering in the neighborhood of 30,000 unions with a membership of about 2,000,000 persons. Something of its 1227 purposes is to be gathered in the preamble to its Constitution, as follows:

"Whereas, A struggle is going on in all the nations of the civilized world between the oppressors and the oppressed of all countries, a struggle between the capitalist and the laborer, which grows in intensity from year to year, and will work disastrous results to the toiling millions if they are not combined for mutual protection and benefit,

"It, therefore, behooves the representatives of the Trade and Labor Unions of America, in Convention assembled to adopt such measures and disseminate such principles among the mechanics and laborers of our country as will permanently unite them to secure the recognition of the rights to which they are justly entitled.

"We, therefore, declare ourselves in favor of the formation of a thorough Federation, embracing every Trade and Labor Organization in America, organized under the Trade Union System."

The official organ of the American Federation of Labor is a monthly publication edited by Gompers, entitled, "American Federationist." As stated by him in the publication itself, it is the "only authorized publication of the American Federation of Labor. It is read by thousands of people in every part of the continent outside of the Labor Organizations as well as by members of the American Federation of Labor."

1228 He states in his annual report as President in 1905:

"There are published now 185 official journals issued monthly or oftener by American International Unions, and 179 weekly labor papers, all devoted to the defense and advocacy of Labor's interests nearly all of which are stoutly espousing the trade union movement and the American Federation of Labor."

These publications, being "official" organs, are therefore the mediums upon which organized labor and its friends are required to rely in gathering their information about labor controversies and the causes of strikes and boycotts. The official organ of the Metal Polishers, Buffers, Platers, Brass Molders and Brass and Silver Workers International Union was a publication called "The Journal." The following is one of its publications.

"Charles R. Atherton, Editor Journal: I wish to make a special plea to all union men in behalf of Local 13, in their fight against the Buck's Stove & Range Company of St. Louis, which is an active fight against organized labor in general, in all lines of work. The local trouble is merely to be an entering wedge, which, if successful, will

and in a general movement to go back to ten hours as the recognized
 y of work; and, furthermore, Mr. Van Cleave, the president of the
 Buck's Stove Company is also the national president of the Manu-
 facturers' Association and president of the local Citizens' Industrial
 Alliance of St. Louis. He has been very active in all labor troubles,
 whether in his line or not, being generally the leader and
 29 aggressor, showing what he will do, and how he will do it.

His present move is to break up the unions of St. Louis. He
 of the same breed as Parry of Indianapolis; Post of Battle Creek,
 Mich.; whose line is salvage grain, with a coffee flavor, and sweat
 op labor, and the Divine Right Baer Coal Trust fame.

Now, brothers, it is up to you to help yourselves by driving the
 Buck's Stove & Range Company from the markets. As the line is
 something we all use, either for cooking or heating purposes, and if
 cannot make ourselves felt in this fight, we certainly cannot in
 y other line. In Toledo, Local 2 has put up a great argument with
 e one dealer who handles the Buck's stoves by visiting all the
 ions in the city, and by distributing boycott cards, etc., until every
 rking man in the city knows the firm is 'unfair.' The local dealer,
 er spending a large sum in advertising the stoves, and carting
 ves back to the store that had been sent out on trial, was forced to
 mit that his stove business is dead in Toledo, and has stopped ad-
 rtisement, and if he ever gets rid of his present stock of Buck's
 ves, he says he will never do it again. Do not let up now, for
 en the season for heating stoves is past, they will then try again
 push the ranges and cook stoves, and if discouraging letters reach
 e makers from every part of the country, their agents and dealers,
 r. Van Cleave will probably then realize that trying to bust unions
 not in his line, and will take less interest in such business as I
 believe him to be a modern business man, and more ready to
 30 sacrifice his principle than his business.

Faternally yours,

MANZ, Local 2."

Copies of the foregoing and similar circulars and of the Journal
 re distributed broadcast amongst those merchants who handled
 intiff's goods, the members of labor unions and the public gener-
 y pending an application to the American Federation of Labor
 its endorsement of the boycott. The Federation meets once an-
 nally in convention of the representatives of Trade Unions affiliated
 oughout the land; according to its Constitution, "No endorsement
 a boycott shall be considered by the Convention, except it has
 en so reported by the Executive Council." This Executive Council
 composed of the President, the Vice Presidents, the Secretary and
 e Treasurer. The Constitution of 1886 provided,—“It shall be the
 ty of the Executive Council to secure the unification of all labor
 ganizations so far as to assist each other in any justifiable boycott.”

1886 this provision was amended so as to read,—“It shall be the
 ty of the Executive Council to secure the unification of all labor
 ganizations so far as to assist each other in any trade dispute.”
 The laws of the Federation itself prohibited the endorsement of
 ore than three boycotts at the same time for one International

union; at the time of the Convention of 1903 the Federation had endorsed boycotts against and was carrying on its "We-don't-Patronize" list the names of three firms who had been boycotted by the 1231 the Metal Polishers', Buffers, Platers, Brass Molders and Brass and Silver Workers International Union, and was rendering effective these boycotts; so that its own laws prohibited it from endorsing the boycott against the plaintiff. The Metal Polishers International Union had instructed its delegates to the Annual Convention to secure an endorsement nevertheless and to that Convention its President, one Grout, was a delegate; and Bechtold the same who had taken part in the conference with Van Cleave, delegate from the International Brotherhood of Foundry Employés, upon the floor of the convention introduced the following resolution:

"Whereas, the Buck's Stove & Range Company of St. Louis which is owned and controlled by J. W. Van Cleave, president of the Manufacturers' Association has persistently discriminated against members of the Foundry Employés Union, to the extent of discharging every man as soon as it became known that he was a member of said union; therefore, be it resolved, that the product of the above named factory be placed on the 'We-don't-Patronize' list of the American Federation of Labor."

The treachery and deceit of this Resolution is displayed by the testimony of the President, the General Manager, Superintendent, Assistant Superintendent, and Foreman of the plaintiff, who upon their respective oaths declare that never, up to the very day of the Resolution, had the plaintiff or any one acting in its behalf discharged or in any way discriminated against any man, in any Department, on account of membership in any Union; each upon his oath further declares that up to the very day of the Resolution he had never heard or knew of the existence of a Foundry Employés 1232 Union, that his first information as to its existence was then conveyed by the subsequent report of the proceedings of the very Convention: The answer to this testimony is silence; no claim is made, nor witness brought nor word spoken in denial. Upon the introduction of the Resolution it was at once referred by the President, Gompers, to the Committee on Boycotts, upon which he had already appointed amongst others, the aforesaid Grout, President of the International Polishers Union. This Committee thereupon reported back the Resolution with recommendation that it be referred to the Executive Council; this recommendation was adopted by the Convention and the Resolution was so referred with a direction to the Executive Council to take action thereon at the earliest possible moment. The Executive Council at its next meeting, held in March 1907, at Washington, D. C., placed the name of the plaintiff and its product on the "We-don't-Patronize" list of the American Federation of Labor, and directed the publication thereof in that list in the American Federationist, in its succeeding issues. Immediately thereafter there was a broadcast distribution of many thousands of the following notices.

"Important Notice.

"The Executive Council of the American Federation of Labor, in session at Washington, D. C., March 18-23, 1907, placed the

'BUCK'S STOVE & RANGE COMPANY

'of St. Louis, on the

'UNFAIR LIST.

"The publication of this concern will be made in the 1233 "We-don't-Patronize" list commencing in the May issue of 'the American Federationist.

"This firm is commencing to advertise in daily papers all over the country, endeavoring to offset the above action. All members take notice. Appoint committees to visit the dealers and bring it to the attention of all friends of organized labor."

The May number of the Federationist carried the following:

"Special Notice.

'WASHINGTON, D. C., June 25, 1907.

'To All Affiliated Unions:

'At the request of the Unions interested and after due investigation and attempt at settlement, the following concerns have been declared UNFAIR:

'BUCK'S STOVE AND RANGE COMPANY, ST. LOUIS, MO.

'Secretaries are requested to read this notice at union meetings, and Labor Reform Press please copy.

'Fraternally yours,

'SAMUEL GOMPERS,

'President American Federation of Labor."

And subsequently carried the name of the plaintiff on its "We-don't-Patronize" list. Boycotts of between 400 and 500 firms 1234 had already been conducted, the experiences of which had developed an expert skillfulness in *modo-operandi* in which the expressions, "We-don't-Patronize" and "Unfair" were understood to be used as synonyms for the coarser sounding verb "boycott," in its imperative mood. The fact of the endorsement of the boycott by the American Federation of Labor was heralded broadcast throughout the United States through the mediums of trade and other journals, circulars, banners, by word of mouth, and the boycott proceeded. Members of Labor Unions were forced and coerced into supporting it whether individually willing or unwilling, approving or disapproving, by methods amongst which were the following:

Extract from the Report of the Proceedings of the Annual Convention of the American Federation of Labor, Held in November, 1907.

From the Report of the Committee on Boycotts.

"We desire to call your attention to the action of the Minneapolis, Minn., convention on this important matter, and particularly to the recommendations thereon as concurred in by that convention. Conditions have not been materially changed since that time and we therefore recommend that the Executive Council be instructed to remove from the "We-don't-Patronize" List the names of firms in all instances wherein the Executive Council has knowledge that the National or International Union responsible for the boycott are not aggressively pushing the same. We feel that the boycott should only be resorted to after all efforts at adjustment have failed, but when instituted by National, International, State, or Central Bodies, it should be made so effective that speedy agreement between the International Union firms will follow."

The following is from the report of the proceedings of the convention of the American Federation of Labor held in 1895:

"The Committee on Credentials, having considered the protest of the Garment Workers against seating the delegate from the Progressive Musical Union has arrived at the following conclusions:

"In view of the fact that this organization has flagrantly and persistently violated the principles and constitution of the A. F. of L., in refusing to indorse the boycott levied by the Garment Workers and endorsed by the A. F. of L., and has done all in their power to offset said boycott, we recommend that the delegate be not seated.

"The Secretary stated that such action practically expelled the organization refusing to endorse a boycott. While to censure might be in order he thought expulsion somewhat harsh" * * *

1236 The report was adopted.
B. Hencken, engaged in the house furnishing business in East St. Louis, testified amongst other things,

"I had sold a railroad man * * * a bill of furniture on time payments * * * and he rented his house from this man Smith. * * * and we sent our carpet man to get the measure for this man's carpet * * * and Smith refused to let him in; he wouldn't let him in; * * * Smith told this railroad man to go and see the grievance man I believe they called him—if he wouldn't permit for him to buy the goods from us * * * so this railroad man that I sold the goods to, he went to see this man, and this man said he couldn't buy the goods from us, that if he did that he would be thrown out of the union."

This Smith was the representative of the Local Union body in East St. Louis.

As late as January 1908 the United Mine Workers of America, an organization of several hundred thousand members in convention assembled adopted this,

"Resolved, That the United Mine Workers of America, in Nineteenth Annual Convention assembled, place the Buck's Stoves and Ranges on the unfair list, and any member of the United Mine Workers of America purchasing a stove of above make be
1237 fined \$5.00 and failing to pay the same be expelled from the 'organization.'"

So much, although but a meager sketch shows the methods of influencing members of unions, and these methods seem to be known as "persuasion."

Passing from them the customers of the plaintiff were intimidated, browbeaten and coerced out of their business relations with the plaintiff by direct interference with and boycott of their, (the customers), trade relations with their own customers and the public generally, of which the following is typical and illustrative.

Joseph Kipper was a stove merchant in the city of St. Louis, handling the plaintiff's stove. The following is from his testimony:

"One man, he followed me in the evening, it was somewhere around six o'clock, toward dark any how and he said that he seen that I had a Buck's stove in my show case, and if I wasn't going to remove that stove, he would knock the show case in and throw the damned stove out into the street."

P. J. Farrington, Secretary of the St. Louis House Furnishing Co., testifies, that Kreyling, Secretary and Visiting Agent of the Central Trades and Labor Union, Leberman, International Vice President, Metal Polishers, Buffers & Platers, Brass & Silver Workers' International union of M. A., and Moran, Visitors Agent of the Stove and Range Founders Union, St. Louis District called at the establishment and demanded that the firm quit selling the plaintiff's
1238 goods:

"We got talking about different subjects and Mr. Kreyling says, 'We are getting away from the subject, what we came here for is to see whether you are going to stop handling and selling Buck's stoves and ranges.' * * * I said 'you should not place a merchant in that position. If you people have a fight or grievance with Mr. Van Cleave or the Buck's Stove & Range Company, you should not try to beat them over our shoulders.' 'It took my partner and myself fifteen years to build up this business and I don't think you people should try to destroy it because you have a grievance or a fight with Mr. Van Cleave.' Mr. Kreyling said that the only way that they could reach him was to get the people to stop buying their goods and that if we didn't stop they would put us on the Unfair List and they left." (Referring to a circular) "This is the boycott notice that was pasted on the upright pieces in front of our store that is used by the Electric Street Car Company and there are several others that were posted up and down the avenue." * * * It was done at night; it would be on in the morning and we would have our porter take it off. It was put on there four or five days in succession."

1239 This is the notice:

"BOYCOTT ST. LOUIS HOUSE FURNISHING CO.,

'904 Franklin Ave.,

'AGENT FOR BUCK'S STOVES AND RANGES

—which are—

'UNFAIR TO ORGANIZED LABOR.

Endorsed by Metal Polishers Union No. 13, Stove Mounters No. 86, Steel Range Workers No. 34, Central Trades and Labor Union of St. Louis and vicinity."

"Shortly before this a furniture van that had canvas on both sides with great big letters "Boycott Buck's Stoves and Ranges," and it stopped in front of our store, * * * that was the day of the labor parade, * * * And there was four or five men on the wagon and they hollered and hooted * * * and there was quite a crowd there * * * and they pointed in there and says, "there are the boycotted goods, there are the Buck's stoves and ranges there."

This was a parade of 15,000 persons.

Pamplin, Assistant Secretary of Plaintiff makes oath respecting the same visit of these three officers at which he happened to be present.

"They told me that they had just started in St. Louis that Committee of three and they intended calling on all our customers with

' the intention of getting them to throw out Buck's stoves and

1240 'ranges, * * * They told me that they had a wagon

' driven up in front of the St. Louis House Furnishing Co,

' on Saturday October 5th and the wagon was covered with cloth and

' painted on the cloth were the words, "Boycott Buck's Stoves and

' ranges."

Pamplin was then in St. Louis giving an exhibit of Buck's stoves near the store of the D. Sommers Stove Company.

"During the time I was there exhibiting that stove, I noticed

' that there were a great many circulars dropping in the alley and

' around the stove * * * each man seemed to bring up a cir-

' cular and while there to drop it * * * The people came down

' Olive street from the west and I went up in that direction, * * *

' I found a man on the corner of 12th and Olive handing to each

' passerby one of these circulars and as I passed he handed me one."

The circular was as follows:

"UNFAIR TO ORGANIZED LABOR.

THE BUCK'S STOVES AND RANGES.

Endorsed by Metal Polishers, Buffers and Platers International Union of North America."

1241 These instances are illustrative of the methods which were employed generally throughout the land, but there is an action of the Annual Convention of 1905, although in another

case which shows the method of the organization too nicely to warrant its omission; a Resolution fathered by the same "Grout" was adopted, containing the following:

"Whereas, The members of the M. P., B. P., B. M., B. & S. W. Union of N. A. who were employed by the Wehrle Stove Company of Newark, O., were forced to cease work on June 2, 1905, on account of the unjust and arbitrary attitude assumed by the firm; and

Whereas, The entire output of said shop is disposed of through the mail order house of Sears, Roebuck & Co. of Chicago * * *

Resolved, That the American Federation of Labor, in its Twenty-Fifth Annual Convention assembled, place Sears, Roebuck & Co., of Chicago, Ill., on the unfair list of the American Federation of Labor and that the usual course in advertising the fact be followed."

Let it be never forgotten that these efforts were not confined to the direct customers of the plaintiff but were forthwith and universally extended to the customers of the plaintiff's customers; nor were they confined to stoves manufactured by the plaintiff but were immediately and universally extended against all the goods of whatever nature and description handled by plaintiff's customers and by whomsoever manufactured. Customers of the plaintiff who

declined to sever business relations with it, or other merchants who because of the merit of plaintiff's goods and the needs and demands of the general public for them, found it advantageous to engage in their sale, straightway found themselves shrivelling and withering in the relentless blight of this hideous pestilence. While the enormity of the result cannot be portrayed in a word picture, yet if it be remembered that the following examples no more than typify that which was practically universal a pigmy illustration is conveyed. They serve to make clear not only the nature of the injury done to the business of the plaintiff but also of that done to the business of its customers, as well as that done to the people of the several states by driving from their markets an article of Interstate Commerce, which their legitimate needs demanded and required. The following are quotations from some of the letters in evidence, the requirements of space commanding what brevity may be.

From W. E. Eppert, Terre Haute, Indiana.

* * * Your Company * * * should know the result of the boycott now being placed upon your stoves in this city. Comparing our business of this year with last reveals the following:

October 1906, Business done over same month this year. . \$3459.97
November 1906, Business done over same month this year 2925.13

Total deficit \$6385.10
for 1907 in these two months.

* * * We should be doing an immense business now on Stoves but will not be able to do it this season unless you

can get matters adjusted some way so that this war will cease. We have spent a large amount of Money advertising the Buck stove and can't afford to see our business go glimmering in this style. What do you suggest in this matter?

Metal Polishers, Buffers, Platers, Brass Molders, Brass and Silver Workers' Union of North America.

Local ——. Sec'y Address, ——.

Affiliated with American Federation of Labor.

An Injury to One Is the Concern of All.

ST. LOUIS, Mo., *Sept. 27th, 1906.*

R. S. Pace Lumber Co., Wilburton, I. Ty.

GENTLEMEN: The Buck's Stove & Range Co. of this City has just made a shipment of stoves and ranges to your firm. I desire to inform you that this firm is unfair to Organized Labor. The Metal Polishers, Buffers and Platers were compelled to go on strike 1244 on account of the unfair treatment at the hands of this firm; the members of the above Union had been working nine (9) hours per day for the past eighteen (18) months and the firm tried to force them to work ten (10) hours per day. I would be pleased to have you return the goods shipped to your firm, also notify Mr. Van Cleave the Manager of the Buck's Stove & Range Co., that your firm will refrain from making any further purchases from them until they treat their employees as they should be treated, or as other manufacturers do.

Hoping that you will grant us this favor and thanking you for the same, we remain,

Respectfully yours,

METAL POLISHERS, BUFFERS & PLATERS'
UNION,

1310 Franklin Ave., St. Louis, Mo.

P. S.—These letters have all been written by the Vice Pres. of this Union in Dist. #12 St. Louis Pac. Libr. Co.

Electrotype Moulders and Finishers Union No. 17.

International Stereotypers and Electrotypers Union.

WASHINGTON, D. C., *April 17, 1907.*

Mr. J. W. Van Cleave, President Buck's Stove and Range Co.

DEAR SIR: The members of this organization have been 1245 instructed to refrain from purchasing the products of your company until such time as said Company shall be on the unfair list.

H. C. PEPPE,
Sec'y-Treas.

Central Labor Council of Lexington, Ky.

LEXINGTON, KY., *March 4, 1907.*

unford Rhodes Furn. Co., Lexington, Ky.

DEAR SIR: Your attention is called to the unfair attitude of the Buck's Stove Co., who refuses to accede to Union conditions in their factory. We desire to advise you to the effect that we will be compelled to refrain from buying Buck's stoves unless that firm will treat fairly with its employes.

We trust that this matter will receive your attention and that you will make it up with the Buck's Stove Co., so that if possible, friction may be avoided.

Respectfully,

A. BABLITZ, *Sec'y.*

The Central Trades and Labor Assembly.

Affiliated with the American Federation of Labor.

Meets Sunday mornings at 9 o'clock at Labor Temple, No. 1512 Eighth Avenue.

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TAMPA, FLORIDA, *Dec. 14, 1906.*

GENTLEMEN: By instructions from the Central Trades & Labor Assembly of Tampa, I hereby inform you that the Buck Stove & Range Co., of St. Louis, Mo., by their attitude to their employees,—the Members of Local # 13 of St. Louis,—are unfair to organized labor generally and we will not patronize the products of the said Co., until they treat with and give their employees fair and just treatment and equitable rights.

We also request that you write the said Buck Stove & Range Co. a personal letter, requesting them to make themselves right or square with their employees or their products will be placed on our "We won't-Patronize list."

Trusting that you will comply with this request, I am,

Yours respectfully,

W. F. KELLY.

Recording Secretary, C. T. & L. A.

St. Louis Stereotypers' Union No. 8.

ST. LOUIS, MO., *May 22nd, 1907.*

Mr. J. W. Van Cleave, Pres. Buck's Stove & Range Co.

DEAR SIR: Your action in compelling the Polishers, Buffers etc., to return to the ten hour work day has caused the members of the Stereo. Union No. 8 to pledge themselves, not to patronize the Buck's Stove and Range Company or any dealer handling your goods.

Sincerely yours,
(Signed)

GEO. BOECKE, *Sec'y.*

The following letters are all to plaintiff:

Pattern Makers' League of North America.

Pattern Makers' Association, Pittsfield, Mass.

OFFICE OF SECRETARY.

PITTSFIELD, MASS., Dec. 8, 1906.

Having received a communication from the Metal Polishers' Assn. describing the trouble they are having with your firm, we deem it wise as union brothers to help them all we possibly can, and with that point in view we will do all in our power to stop the sale of your goods in our city.

PATTERN MAKERS' ASSO.

Central Labor Union,

Affiliated with American Federation of Labor,

CAIRO, ILL., December 5, 1906.

The union men of Cairo at a meeting held Monday Dec. 3 instructed me to notify your firm that their patronage would be withheld from Buck's stoves and ranges until the 9 hour day has been granted the Metal Polishers formerly employed by you, but who were compelled to strike because of your action in insisting on their returning to the 10-hour work day.

Yours truly,

1248

HARRY P. HELTON.

The Johnson County Federation of Labor.

HARTMAN, ARK., July 15, 1907.

I am hereby authorized to write you that the laboring men of this county will not patronize your goods until you get right with your men. As we think you do not treat Local Union #13 Platers & Buffers of St. Louis with fairness so we won't buy any of your goods in this county until you do.

Hoping you will get on the right side of the fence so it won't work a hardship on some of our local dealers, I remain,

Sincerely yours,

ROBT SCHOEFFLER, (*Rec. Sec.*).

The following from customers:

From H. L. McElroy Co., Youngstown, Ohio.

* * * We put your side of the matter before these gentlemen as clearly as we could but of course made no impression on them.
* * * We have been loyal to the line—are in better shape this year * * * to push forward the business than ever before. It would be a serious calamity for us to be compelled to change our line

at this time but we cannot endanger the success of our entire business by arousing the antagonism and animosity of the labor unions.

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From Alonzo Miller, Staunton, Ill.

* * * This town is made up of miners, strictly Union men, and at their last meeting * * * they made a motion and was carried that a miner would be fined if he bought a range or a heater from one that was bought from Buck's Stove Mfg. Co. So gentlemen I see the best thing I can do is not to handle your stoves and send back what I have on hands. So you send your man here and check me out * * *. If you don't send your man I will send these stoves and ranges back at once as I will not ruin my business for your stoves and ranges.

From J. H. Kaufman & Co., Aberdeen, Washington.

* * * We are advised by the Trades Council here that your stoves and ranges have been boycotted by the Labor Unions on account of strike. We trust that this difficulty will soon be settled for if not, we will have to discontinue the handling of your line.

From Christ Niebur, Breese, Ill.

Enclosed find check for my account, * * * as I have heard that you are on the Unfair List and the union is so strong here I guess I can't buy any stoves from you until settled.

250

From Baker & Gideumb, Harrisburg, Ill.

* * * The Union people of this town have you people on the Unfair list here and won't allow me to handle any of your goods.

* * * I am out now and would like to have or could use several stoves now, but I can't afford to handle them as long as you are on the Unfair list with the union people.

From F. W. Schneck & Co., Milwaukee, Wis.

* * * We have handled your stoves for 15 years, have heard of no labor troubles, have worked hard to get them up to a high standard, have worked up a large trade, have advertised liberally and therefore would not like to drop the line.

We also are about ready to place an order for next season but under present conditions are obliged to wait until you in some way adjust the matter with the union, as 90% of our trade is composed of laboring people.

From Lou Coy House Furnishing Co., Great Falls, Montana.

* * * It had been our intention to put in a car of Bucks Stoves and Ranges this Fall and had advertised them very strongly, but plans were knocked in the head by the unions in the towns coming to us and requesting us not to handle them, and as we are largely dependent on this trade a request is equal to a demand.

1251 Telegram from Maquin and Co., Globe, Ariz.

* * * Article published here says that Federation of Labor has boycott on your goods if this is true we cannot use your goods
* * * Hold ear. * * *

From Duncan-Baker Hardware Co., Marion, Ill.

* * * When the order was placed for these stoves we had not heard of your controversy with the labor organization. * * * We cannot afford to put the stoves on our floor for the purpose of selling them and we believe you too honorable to force us to keep them.

From Prince Furniture Company, Allentown, Penn.

There is a very important matter to which my attention has been forced and which threatens my interest in Pittston very seriously. Pittston is the stronghold of organized labor and I hardly think it is prudent situated as I am to antagonize the labor organization there. They have been sending Committees into our store from all sources. * * *

From The House Furnisher, Kenosha, Wis.

* * * I need some stoves but cannot handle them the unions here are very strong and are here every two weeks or so to look over my stock. * * * I got your line well started but could not buy any more until it is settled. * * * Always had nice
1252 dealings with you, but I am forced to do this.

From the Schunk-Marquardt Co., Toledo, Ohio.

Again we have been notified by the Labor Unions that the Buck Stove & Range Co. are still on the unfair list, and that if we continue to handle the Buck stoves and ranges they will boycott us, not only on Buck's stoves and ranges but on all hardware. * * * Unless this matter can be settled up between you and the unions we will be compelled to take up another line of stoves.

From Campbell, Sperry & Co., Piqua, Ohio.

* * * We regret * * * that it seems impossible for us to push your line as we hoped we might as we have done in the past for we certainly like the goods and we realize that it will mean a hard pull to put another line to the front where the Bucks stands but owing to the labor troubles which exist we shall be obliged to use some other line as the advertised line. * * * We have already lost considerable business this Spring from the stove-works fellows which we know would have come to us except for the feeling that exists.

The number of such various letters was myriad, the foregoing only illustrative.

1253 The plaintiff had contractual arrangements with merchants to the number of between 2,000 and 3,000 but the obligations of contracts were likewise ignored as illustrated by the following quotations from the testimony. None of which is denied or even questioned by the defendants.

From Farrington.

(Referring to the interview with Kreyling, Leberman and Moran, already mentioned)—“There was about \$5,000 worth of Buck's stoves that we had in there and I says, we have got our money invested in these and want to dispose of them, what would you advise us to do with them?” Kreyling says, “we don't care what you do with them, if you don't sell them.” I says, “well if you just buy what we have got on hands I will agree not to buy any more, although we are under contract with the Buck Stove & Range Company to take a certain amount of their goods and in return for them they give us the exclusive sale on Franklin Avenue. * * *” I spoke to Mr. Kreyling after he left there, that is the first time,—I have since seen him; I asked him why he put us on the unfair list and boycotted us, they had not boycotted Sommers and McNichols and he said they gave him some satisfaction. I says “wasn't everything satisfactory when you left me?” “Well,” he said, “you seemed to stand on your contract you had with the Buck Stove & Range Company and you wouldn't promise not to sell any more.”

Arnold, Vice President of the D. Sommers Co. * * * “They asked me to simply quit handling Buck's stoves and ranges and to quit doing business with them until such time as this suit was settled.

1254 I told them that we had a contract with the Buck Stove & Range Co. to take a certain number of stoves. * * * They suggested that possibly we could get out of that contract if we wanted to. I told them we did not do that sort of business.”

Templeton, Secretary of the Plaintiff, testifies that it had contracts with the Schunk-Marquardt Hardware Co., above referred to and identifies numerous others in the like situation who have been forced to sever their relations with the plaintiff. The method of reports required by the Federation itself is prolific of evidence showing the results of its efforts; as follows:

In the Annual Convention of the Federation of 1907 it was “Resolved, That each central body affiliated with the A. F. of L. be and is hereby requested to appoint a committee who shall conduct and manage a ‘campaign of education’ among the membership affiliated with their central body, as well as dealers in stoves and ranges in their locality and thoroughly inform them of the entire facts of the dispute between the Metal Polishers, Buffers, Platers, Brass and Silver Workers' Union of North America, the Brotherhood of Foundry Employés, also as to the attitude of J. W. Van Cleave and the Manufacturers' Association towards organized labor, Be it further

Resolved, That all said Committees shall report on the first of each month to the officers of the A. F. of L. the progress of the 'campaign of education' together with a complete list of all dealers in their locality who are handling and selling the product of the 1255 Buck Stove and Range Company. Be it further

Resolved, That all commissioned organizers of the A. F. of L. shall report on the first of each month to the officers of the A. F. of L. the progress made in this 'campaign of education' by the different committees of the different central bodies in their respective districts and also render such aid to all committees as lay in their power." (Resolution 49.)

A special committee reported to this convention as follows:

"Referring to Resolution No. 49, hereto attached by delegates A. B. Grout, and James J. Dardis, * * * relative to a 'campaign of education' we fully agree with the purpose of the Resolution but recommend that the details and manner of carrying out the spirit and object of the resolution be left in the hands of the President and Executive Council."

The report of the Committee was concurred in.

Extracts from the Report of the Committee on "Boycotts" to the Same Convention.

"WE DON'T PATRONIZE LIST."

"We desire to call your attention to the action of the Minneapolis, Minn., convention on this important matter, and particularly to the recommendations thereon as concurred in by that convention. Conditions have not been materially changed since that time, and we therefore recommend that the Executive Council be instructed to remove from the "We Don't Patronize List" the names of 1256 firms in all instances wherein the Executive Council has knowledge that the National or International Union responsible for the boycott are not aggressively pushing the same. We feel that the boycott should only be resorted to after all efforts at adjustment have failed, but when instituted by National, International, State or Central Bodies it should be made so effective that speedy agreement between the International Union firms will follow."

The Convention was followed by this, amongst other things.

"THE BUCK'S STOVE BOYCOTT."

Official Statement by the President of the American Federation of Labor Concerning Mr. Van Cleave's Buck's Stove and Range Company.

1257 Every Labor Union Called Upon to Act in the Matter.

WASHINGTON, D. C., Nov. 26, 1907.

To All Organized Labor and Friends:

"You undoubtedly are aware of the fact that the interests of the foundry employees and metal polishers have been greatly injured

on account of the hostile action of the Buck's Stove and Range Co. of St. Louis, of which Mr. Van Cleave is president, and he is also president of the National Association of Manufacturers.

"As you are well aware, so inimical to the welfare of labor was the Buck's Stove and Range Co.'s management that the organization concerned felt obliged to declare the product of that company unfair. The workmen's organization appealed to the American Federation of Labor to indorse its action. After due investigation that indorsement was given and is still further affirmed. The circumstances leading to this action are so widely known that they need not be here recounted.

"Mr. Van Cleave, for the Buck's Stove and Range Company, brought suit against the American Federation of Labor and its executive council and has petitioned the court for an injunction to prohibit the American Federation of Labor from in any way advising organized labor and its friends of the fact that the Buck's Stove and Range Co. is unfair to its employees and for that reason its name is published upon the American Federation of Labor "We Don't Patronize List."

"The Court will soon give a decision on the legal issue 1258 which has been raised. We shall continue to maintain that—have the right to publish the name of the Buck's Stove and Range Co., upon the "We Don't Patronize List." Should we be enjoined by the Court from doing so, the merits of the case will not be altered nor can the Court decision take from any man the right to bestow his patronage where he pleases.

"Mr. Van Cleave, president of the Buck's Stove and Range Co., also president of the National Association of Manufacturers is raising a war fund of \$1,500,000 to crush organized labor. You already know the attempts that have been made with a part of that money to assassinate the characters of the active men in the labor movement, to corrupt them and buy them over, much of which was exposed at the recent Norfolk convention of the American Federation of Labor, and more of which will be published in a pamphlet about to be issued.

"Bear in mind that you have a right to decide how your money shall be expended.

"You may or may not buy the products of the Buck's Stove and Range Company.

"There is no law or edict of court that can compel you to buy a Buck's Stove or range.

"You can not be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove and Range Company's products of its unfair attitude toward 1259 its employes and ask them to give their sympathy and aid in influencing the *the* Buck's Stove and Range Company to deal fairly with its employees and come to an honorable agreement with the union primarily at interest.

"It would be well for you as central bodies, local unions and in-

dividual members of Organized Labor and sympathizers to call on business men in your respective localities, urge their sympathetic co-operation and ask them to write to the Buck's Stove and Range Company of St. Louis, urging it to make an honorable adjustment of its relations with Organized Labor.

"Act energetically and at once. *Report the result of your effort to the undersigned.*

SAM'L GOMPERS,
President A. F. of L.

Attest:

FRANK MORRISON, *Secretary.*

By order of the Executive Council of the American Federation of Labor."

Each issue of the American Federationist for the months of June, July, August, September, October, November and December, 1901, and January, March, April and May, 1902, contained a heading, "What our Organizers are doing from the Atlantic to the Pacific," with the following explanation.

"Under this head is presented to our readers the latest, 1260 most accurate, direct and comprehensive news of industrial organization throughout the Country for the past month. No Magazine in this, or any other Country publishes so unique a report, or employs so large a staff of news gatherers. We have eight hundred volunteer organizers continually giving their services to foster and promote the Organization of wage workers into Unions. A condensed report of their work is given in these columns. These organizers are themselves men of the factory, mine and mill. They participate in the struggles of our wage workers for better conditions, help to win victories, aid in securing legislation—in short do the thousand and one things that go to round out the practical labor movement.—The method of collecting this information is simplicity itself. Early in the month each organizer receives from the headquarters of the American Federation of Labor a blank form, upon which the report is to be written, with a stamped return envelope. The summary given in the following pages indicates how prompt and full are the replies and how remarkable is the activity in the trade union movement in all parts of the country."

In these eleven issues appear 205 distinct and separate reports emanating from all the territory of the United States comprised between Maine upon the northeast, Oregon, upon the northwest, Florida upon the southeast, and Texas on the southwest, from which the following are taken at random and to which all are of similar import:

1261 "Oklahoma, Okla. Territory.

"Organizers, reports, 'All American Federation of Labor Boycotts are being pushed.'"

"Jamestown, New York.

"Organizer H. S. Whiteman reports, 'We have followed the suggestion of President Gompers, and all boycotts are published every week in our Union Advocate.'"

"Clinton, Iowa.

"Organizer G. C. Campbell reports, 'All American Federation of Labor Boycotts are being systematically pushed and we have succeeded in suppressing the sale of Queen Quality Shoes.'"

Tampa and Vicinity, Florida.

"Organizer C. A. Winsett reports, 'The Trades Assembly has decided to push the boycott against the New York Sun and will refuse to purchase anything advertised in its columns.'"

1262 The system was thus well developed in 1902; and had grown until 1906, Gompers, President, reported to the Annual Convention of that year that

"there were more than 1,200 organizers representing every State in the Union directly commissioned by the American Federation of Labor—There are published now 185 officials journals issued monthly or oftener by International Unions, and 179 weekly labor papers, nearly all devoted to the defense and advocacy of labor's interests, nearly all of which are stoutly espousing the trade union movement and the American Federation of Labor."

Such is a meager portrayal of the status at the time of the preliminary injunction; such the procession of evils which it sought to reach and to arrest awhile, until the merits of the controversy could be judicially ascertained, according to due process of the law of the land; its sketching though tedious and laborious has seemed essential here, in order to an understanding of the relationship which the doings and contrivances of the respondents subsequent to the injunction, bears to the execution of the pre-established interdiction and the uninterrupted consummation of its ends.

What word suffices to describe the picture; need one be chosen? Of what moment that any should? What one word boasts the power? The uttermost speech of human kind is barren of
1263 term or synonym which measures to the task.

Then dissertation over the philological import of "Boycott" is not proposed; rather, deliberately laid aside; lest the enormities of fact be blanketed by terms, and the conclusions deduced from them hereafter be sought to be juggled from their true foundation by some empty warfare over words; whose discovers the fore-described enterprise to run along with his own conception of "boycott," as well as he of sensibility so refined as to be agitated at the

association of such doings with so gross a term, will be conscious of no conflict against their respective opinions on the point.

And so with "conspiracy," a word held ever in poor repute by those to whose joint projects it deserves to be applied; agreements compassing lawful purposes the law calls "Contracts"; to distinguish them from agreements compassing unlawful purposes, the law terms the latter "Conspiracies"; there is no other difference; and in either case, whether the agreement be expressed in distinct and definite form, or exists only in a mutual, coöperative understanding.

1264 Prior to the enactment of the "Sherman Act," by the Congress of the United States, it was at Common Law a crime for two or more persons to combine for the purpose of consummating an unlawful act; whether that unlawful act was the ultimate object of the combination or whether the unlawful act was but a step to the achievement of an ultimate lawful design; were an unlawful act anywhere projected in the agreement the crime was complete in the mere agreement itself, although no steps were ever taken toward its execution and although its ultimate purpose was good. That an individual should pay his debts was commendable; but an agreement to attain that desirable end through the method of beating him over the head, was a crime; and yet "unlawful Acts," are not only those which are so grievously unlawful as to be public crimes; a violation of any civil right of another is none the less "unlawful" because it happens to be less than a crime.

When persons enter into a "contract" their status with respect to each other and the balance of mankind is straightway altered; each is vested with rights which he did not have before, in that each is entitled from the other to the performance of the obligations of that contract; the right to the performance of these obligations the balance of mankind are required to respect; not even the law making power of all the States of the Union severally assembled is potent to deprive either by even a jot or tittle and with these obligations cannot interfere; for in the Constitution it is written, "No State shall—pass any law impairing the obligation of contracts." When came Labor Unions to be of greater power and majesty than these?

1265 The breach of a contract by a party to it being "unlawful," (not unlawful in the sense of criminality, but unlawful in the sense of a violation of the "civil" right to its performance,) the act of a third person in persuading him into the breach is equally "unlawful"; and if a combination of two or more persons contemplates the breach of a contract through even the persuasion of a party to the contract, the combination comprises an "unlawful act" and the combination alone and in itself is a common law crime.

Secondly, A business, be it mercantile, manufacturing or other, which has for a long time been successfully operated and developed possesses a greater value than a like business newly launched, although the latter be exactly equivalent in respect of stock, equipment, monies and all other physical possessions; the basis of the excess in value of the one over the other is termed the "good will;" it is the advantage which exists in established trade relations with not only habitual customers but with the trading public generally; the ad-

advantage of an established public repute for punctuality in dealing, or superior excellence of goods or product; finally, in last analysis, a "good will," when it exists is one return for the expenditure of time, money, energy and effort, in development; it is a thing of value in the sense that it is a subject of bargain and sale; oftentimes of a value which exceeds that of all physical assets taken together; in that it may possess exchange value, it may be "property;" when it does possess "Exchange value," property it is; and a combination for the purpose of destroying it is for an "unlawful act," whether you call the combination a "Labor Union" or a "Trust." There is no room here for confusion with cases of business competition between individuals, or individual firms; competition gives to the public the advantage of choice, and thereby conduces to the public advantage by stimulating a betterment of product; elimination either promotes monopoly or drives utterly from the markets and from the reach of the public a product which perchance may be generally necessary or universally desired; these ends an individual single handed is impotent to achieve, but a combination if sufficiently far reaching may bring them readily to pass; herein is the combination unlawful, while the single handed project of an individual is not.

Third. Congress has seen fit to enact (1 Sup. 762.)

"An Act to Protect Trade and Commerce against Unlawful
'Restraint and Monopolies.'

"Sec 1. Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several States, or with foreign nations is hereby declared to be illegal."

"Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and, on conviction thereof shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments in the discretion of the Court."

The plaintiff's trade was "among the several States;" its product an article of "commerce" among them; the confederation of the various defendants was a "conspiracy" in restraint of both. (*Loewe v. Lawlor*, 205 U. S. 274) although if fault with the word is found, it may be laid aside and "Combination" substituted; for respecting the case here it is all one.

From the foregoing it ought to seem apparent to thoughtful men that the defendants to the bill, each and all of them have combined together for the purpose of

1. Bringing about the breach of Plaintiff's existing contracts with others.

2. Depriving plaintiff of property (the value of the good will of its business) without due process of law.

3. Restraining trade among the several States.

4. Restraining commerce among the several States.

And if either conclusion 1 or 2 is accurate, are guilty of the Common Law crime, "Conspiracy;" if either conclusion 3 or 4 is

accurate, guilty of the crime defined by the Statute; there is in my judgment no escape from either conclusion of the four; under either aspect of the matter their ultimate purpose is unlawful, their concerted project of it an offense against the law, and they are guilty of crime.

It was to stay the unlawful impairment of the plaintiff's contracts stay the destruction of the value of its business "good will;" stay the restraint of trade among the several states; stay the restraint of commerce among them and preserve an existing status until the case could finally be heard, that the injunction was designed; in so far as the devices and instrumentalities employed by the plot 1268 were numerous and elaborate, the plot itself was responsible for the extent to which the injunction must proceed to those details if it would reach plot and plotters. Here is this injunction order:

"This cause coming on to be heard upon the petition of the complainant for an injunction *pendente lite* as prayed in the bill, and the defendants' return to the rule to show cause issued upon the said petition, having been argued by the solicitors for the respective parties, and duly considered, it is thereupon by the Court, this 18th day of December, A. D. 1907, ordered that the defendants, The American Federation of Labor, Samuel Gompers, Frank Morrison, John B. Lennon, James Duncan, John Mitchell, James O'Connell, Max Morris, Denis A. Hayes, Daniel J. Keefe, William D. Huber, Joseph F. Valentine, Rodney L. Thixton, Clinton O. Buckingham, Herman C. Poppe, Arthur J. Williams, Samuel R. Cooper and Edward L. Hickman, their and each of their agents, servants, attorneys, confederates, and any and all persons acting in said aid of or in conjunction with them or any of them be, and they hereby are, restrained and enjoined until the final decree in said cause from conspiring, agreeing or combining in any manner to restrain, obstruct or destroy the business of the complainant, or to prevent the complainant from carrying on the same without interference from them or any of them, and from interfering in any manner with the sale of the product of the complainant's factory or business by defendants, or by any other person, firm or corporation, and from declaring or threatening any boycott against the complainant, or its business, or the product of its factory, or against any person. 1269 firm or corporation engaged in handling or selling the said product, and from abetting, aiding or assisting in any such boycott, and from printing, issuing, publishing, or distributing through the mails, or in any other manner any copy or copies of the American Federationist, or any other printed or written newspapers, magazine, circular, letter or other document or instrument whatsoever, which shall contain or in any manner refer to the name of the complainant, its business or its product in the 'We Don't Patronize,' or the 'Unfair' list of the defendants, or any of them, their agents, servants, attorneys, confederates, or other person or persons acting in aid of or in conjunction with them or which contains any reference to the complainant, its business or product in connection with the term 'Unfair' or with the 'We Don't Patronize'

list, or with any other phrase, word or words of similar import, and from publishing or otherwise circulating, whether in writing or orally, any statement, or notice, of any kind or character whatsoever, calling attention to the complainant's customers, or of dealers or tradesmen, or the public, to any boycott against the complainant, its business or its product, or that the same are, or were, or have been declared to be 'Unfair,' or that it should not be purchased or dealt in or handled by any dealer, tradesman, or other person whomsoever, or by the public, or any representation or statement of like effect or import, for the purpose of, or tending to, any injury to or interference with the complainant's business, or with the free and unrestricted sale of its product, or of coercing or inducing any dealer, person, firm or corporation, or the public, not to purchase, 1270 use, buy, trade in, deal in, or have in possession stoves, ranges, heating apparatus, or other product of the complainant, and from threatening or intimidating any person or persons whomsoever from buying, selling, or otherwise dealing in the complainant's product, either directly, or through orders, directions or suggestions to committees, associations, officers, agents or others, for the performance of any such acts or threats as herein above specified, and from in any manner whatsoever impeding, obstructing, interfering with or restraining the complainant's business, trade or commerce, whether in the state of Missouri, or in other States and Territories of the United States, or elsewhere wheresoever, and from soliciting, directing, aiding, assisting or abetting any person or persons, company or corporation to do or cause to be done by any of the acts or things aforesaid.

"And it is further ordered by the court that this order shall be in full force, obligatory and binding upon the said defendants and each of them and their said officers, members, agents, servants, attorneys, confederates, and all persons acting in aid of or in conjunction with them, upon the service of a copy thereof upon them or their solicitors or solicitor of record in this cause; Provided, The complainants shall first execute and file in this cause, with a surety or sureties to be approved by the court or one of the justices thereof, an undertaking to make good to the defendants all damage by them suffered or sustained by reason of wrongfully and inequitably suing out this injunction, and stipulating that the damages may be ascertained in such manner as the justice of this court shall direct, 1271 and that, on dissolving the injunction, he may give judgment thereon against the principal and sureties for said damages in the decree itself dissolving the injunction."

That Gompers and others had in advance of the injunction determined to violate it if issued, and had in advance of the injunction counseled all members of Labor Unions and of the American Federation of Labor and the public generally to violate it in case it should be issued appears from the following, which references point out also the general plan and mutual understanding of the organizations and their various members,

PREDETERMINATION TO VIOLATE.

Extract from Report of Proceedings of the Convention of the American Federation of Labor, 1906, page 14.

"Report of Samuel Gompers, President.

City Central Bodies—Their Importance and Duty.

* * * "Our international trade unions and the American Federation of Labor are dependent upon local central bodies to carry out the program or policy decreed by the general labor movement. * * * But the practical assistance they can and do render the labor movement in executing the plans devised for the protection and promotion of the interests and rights of the toiling masses is incalculable. They are not only the local municipal council of industry dealing with sociological problems, but they are also the concrete power to enforce and execute within the jurisdiction of their existence the judgment of the highest Court in the realms of labor of America, the American Federation of Labor.

1272 * * * When, however, the final word has been spoken by the Court of last resort of labor, composed of the representatives of the intelligent organized wage earners of America, to these at least conformity by our central bodies is essential to the safety and the well-being of the labor movement. * * * It is gratifying to be in a position to report that there is a constantly increasing manifestation of loyalty and faithful adherence by our central bodies to the general trend, policy, decisions and laws of the American Federation of Labor, but the greatest good cannot be accomplished nor the largest degree of success achieved so long as there is even one central body which for any reason hampers or blocks the consummation of the attainment of the common concert of action."

Extract from Report of Proceedings of Convention of American Federation of Labor, 1897.

"Report of Samuel Gompers, President."

"Boycotts and Court Decisions."

"Recently one of the branches of the federal Court decided by a majority vote that the Boycott is illegal."

* * * We should demand the change of any law which curbs the privilege and the right of the workers to exercise their normal and natural preferences. In the meantime we should proceed as we have of old, and wherever a Court shall issue an injunction restraining any of our fellow workers from placing a concern hostile to labor's interests on our Unfair list; enjoining the workers from issuing notices of this character, the further suggestion is made that upon any letter or circular issued upon a matter of this character, after stating the name of the Unfair firm

and the grievance complained of, the words 'We have been enjoined by the Courts from boycotting this concern' could be added with advantage."

* * * * *

In his report as president, to the 1907 Convention of the American Federation of Labor he stated:

IN THE MEANTIME WE SHOULD PROCEED AS WE HAVE OF OLD, and wherever a COURT shall issue an injunction restraining any of our fellow workers from placing a concern hostile to labor's interest on our UNFAIR list; enjoining the workers from issuing notices of this character, after stating the name of the unfair firm and the grievance complained of, the words 'We have been enjoined by the Courts from boycotting this concern' could be added with advantage."

And when on the stand as a witness in this cause, on January 30, 1908, his attention was called to that portion of his report he replied in respect to it,

"Q. Have you ever recalled that suggestion?

"A. No, sir; I would rather reaffirm it."

In the November, 1902, number of the Federationist in its editorial columns he printed and published:

"We beg to say plainly and distinctly to Mr. Merritt and fellow sympathizers THAT THE AMERICAN FEDERATION OF LABOR WILL NEVER ABANDON THE BOYCOTT, and that the threats against the Federation are idle, impotent and impudent."

A day or two after the filing of the bill herein he publicly stated in an interview with three representatives of prominent newspapers:

1274 "When it comes to a choice between surrendering my rights as a free American citizen or violating the injunction of the courts, I do not hesitate to say that I shall exercise my rights, as between the two."

On September 5, 1907, at the Jamestown Exposition, in the course of a Labor Day speech, delivered as a public address, he said:

"An injunction is now being sought from the Supreme Court of the District of Columbia against myself and my colleagues of the executive council of the American Federation of Labor. It seeks to enjoin us from doing perfectly lawful acts; to deprive us of our lawful and constitutional rights. So far as I am concerned, let me say that never have I, nor ever will I, violate a law. I desire it to be clearly understood that when any court undertakes without warrant of law by the injunction process to deprive me of my personal rights and my personal liberty guaranteed by the Constitution, I shall have no hesitancy in asserting and exercising those rights."

In the October 1907 issue of the Federationist, he published the same at length in the editorial columns, and in the same columns of the same number stated,

"So long as the right of free speech and free press obtains, we shall publish the truth in regard to all matters. If any person or association challenges the accuracy of any of our statements, we are willing to meet him or them in the courts and defend ourselves. So long as we do not print anything which is libelous and seditious, we

1275 propose to maintain our rights and exercise liberty of speech and liberty of the press. If for any reason, at any time, the name of the Buck's Stove and Range Company does not appear upon the 'We Don't Patronize' list of the American Federationist (unless that company becomes fair in its dealings toward labor), all will understand that the right of free speech and free press are denied us; but even then this will not deprive us, or our fellow-workmen and those who sympathize with our cause, from exercising their lawful right and privilege of withholding their patronage from the Van Cleave Company—The Buck's Stove and Range Company of St. Louis.

"So far as we are personally and officially concerned, we have fully stated our position in the American Federationist and elsewhere.

"Do not fail to keep the Buck's Stove and Range Company of St. Louis in mind and remember that it is on the unfair list of organized labor of America."

In a column in the same issue headed "Editorial Notes," he used the following language:

"So labor must not use its patronage as it will—that is, if Van Cleave of Buck's Stove and Range Company fame has his way. But what vested right has that company in the patronage of labor or of labor's friends? It is their own to withhold or bestow as their interest or fancy may direct.

"They have a lawful right to do as they wish, all the Van Cleave, all the injunctions, all the fool or vicious opponents to the contrary notwithstanding.

"Wonder whether Van Cleave will try for an injunction compelling union men and their friends to buy the Buck's Stove and
1276 Range Company's unfair product?

"Until a law is passed making it compulsory upon labor men to buy Van Cleave's stoves we need not buy them, we won't buy them and we will persuade other fair-minded, sympathetic friends to co-operate with us and leave the blamed things alone.

"Go to — with your injunctions."

(He has actually taken an oath in this case here, that he did not mean "Go to hell with your injunctions.")

"The Buck's Stove and Range Company of St. Louis (of which Mr. Van Cleave is president) will continue to be regarded and treated as unfair until it comes to an honorable agreement with organized labor. And this, too, whether or not it appears on the 'We Don't Patronize' list."

After the motion for the injunction had been heard and submitted to the Court, and pending its decision there were prepared, published and despatched to each secretary of the 25000—30000 unions an "Urgent appeal" for funds, accompanied by a circular letter signed by Gompers and Morrison as "President" and "Secretary" respectively, which contained:

"The Court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove & Range Company upon the 'We Don't Patronize List.' Should we be enjoined by the Court

BOYCOTT BUCK'S STOVES AND RANGES

Justice Gould, in the Equity Court of the District of Columbia, on Dec. 17, handed down a decision granting the company a temporary injunction preventing the Federation from publishing this firm as

UNFAIR TO ORGANIZED LABOR.

(This is not in conflict with the injunction, but a statement of fact.)

THE CLEVELAND (Ohio) CITIZEN—January 18, 1908.

is on the

.....UNFAIR LIST OF ORGANIZED LABOR.....

ST. LOUIS HAS 45,500 UNION MEMBERS.

ST. LOUIS LABOR—January 18, 1908.



One Way of Doing It!

Here is one way of announcing a recent court decision, taken from the Galesburg "Labor News."

"It is unlawful for the American Federation of Labor to

BOYCOTT

Buck Stoves and Ranges

"Justice Gould in the Equity Court of the District of Columbia, on December 17th, handed down a decision granting the company a temporary injunction preventing the Federation from publishing this firm as

UNFAIR

To Organized Labor

"The above could hardly be construed to conflict with the law, since it is a statement of facts."

Victory for the Union Label!

Organized Labor in general and Typographical Union No. 64 in particular have won their first battle of 1908 and it was a

from doing so, the merits of the case will not be altered nor can any court decision take from any man the right to bestow his patronage where he pleases."

The said letter, so prepared, issued and caused to be circulated by the said Samuel Gompers and Frank Morrison, further stated:

"Bear in mind that you have a RIGHT to DECIDE how YOUR MONEY SHALL BE EXPENDED.

"You may or may not buy the products of The Buck's Stove & Range Company.

"There is no law or edict of court that can compel you to buy a Buck's Stove or Range.

"You cannot be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove & Range Company's products of its unfair attitude toward its employees and ask them to give their sympathy and aid in influencing the Buck's Stove & Range Company to deal fairly with its employees and come to an honorable agreement with the Union primarily at interest.

"It would be well for you as central bodies, local unions and individual members of organized labor and sympathizers to call on business men in your respective localities, urge their sympathetic cooperation and ask them to write to The Buck's Stove & Range Company of St. Louis, urging it to make an honorable adjustment of its relations with organized labor. Act energetically and act at once. Report the result of your effort to the undersigned."

After the injunction issued, the effect of the suggestions thus made, the counsel thus given blazed through the labor press over the land in the manner of the following fac-simile reproductions:

(Here follow fac-similes marked pp. 1278 and 1279.)

Having in mind what may be in the foregoing delineation which indicates that either of the three respondents did before the issuance of the injunction deliberately determine to wilfully violate it and did counsel others to do the same, let me now turn to their sayings and doings since the decision of Mr. Justice Gould was formally announced, and the order of injunction itself put into technical operation by the giving of the injunction bond. On December 17, 1907, the opinion of the Court was filed in the case; the order of injunction was entered on December 18th; the giving of the undertaking required by it was consummated on December 23rd, and I am dis-

posed now to look at the separate conduct of each respondent with a view of recording his individual responsibility in sufficient detail.

Gompers.

He testified that the January number of the American Federationist, edited by him as President of the American Federation of Labor, still contained the name of the plaintiff upon its "unfair list," and contained also the following:

"A limited number of the American Federationist for 1907, bound in two volumes, may be had on application to this office. The 1907 volumes are bound in the same style as the preceding years.

The official printed proceedings of the Norfolk convention of the A. F. of L. are now ready and can be had upon application by mail, 25 cents per single copy, \$20 per hundred. Postage prepaid by the A. F. of L."

The said proceedings of the Norfolk Convention contain, at page 91, the name of petitioner as being on the "Unfair" list of the American Federation of Labor.

He testifies that more than 10,000 copies were hurriedly printed in Washington.

"Q. When were they received? A. About December 20th or 21st.

"Q. That is, they were received from the printer about December 20th or 21st? A. About that; I am not sure as to the date but I made it a special purpose to get it out a day or two earlier, and if that is the purpose of your question I will tell you.

"Q. What is it? A. It was to issue the American Federationist before the undertaking had been made, so as to make the injunction of Justice Gould effective.

"Q. You knew at the time the order had been made? A. Yes, sir—

"Q. Were these 10,000 copies distributed? A. Yes, sir.

"Q. From the office? A. Yes, sir.

"Q. In what way? A. Through the mails, through carriers, through direct purchases—

"Q. Have you unions in California? A. Affiliated?

1282 "Q. Yes. A. We have local unions affiliated to International Unions.

"Q. Yes; and to whom these were sent? A. Yes, sir, but I suppose they were in transit.

"Q. That they would be in transit on the 23rd? A. More than likely, sir. I did not give it a thought, but I suppose so now you ask me the question. I never gave it a thought—

"Q. At the time you sent these out through the mails you supposed they would be in transit? A. I did not suppose anything of the kind. I did not give the matter a thought as to whether it was California, or Kalamazoo or the District of Columbia."

In this, he over-reached himself; for the mails were his agents, chosen by him as the medium for delivery to distant points; and if, after the injunction became operative he violated it through the instrumentality of his own hands or through the instrumentality of

ORDER GRANTING INJUNCTION.

In the official organ of the National Association of Manufacturers, one of the counsel for the Buck's Stove and Range Company declares that punishment for violation of the injunction issued by Justice Gould, against the American Federation of Labor, applies particularly to those within the territorial limits of the District of Columbia who violate the terms of the injunction. That those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia. Counsel for the American Federation of Labor assure us that this construction of the court's order is accurate.

THE INJUNCTION—BUCK'S STOVE AND RANGE CO. vs. AMERICAN FEDERATION OF LABOR.

THIS cause coming on to be heard upon the petition of the complainant for an injunction pendente lite as prayed in the bill, and the defendant's return to the rule to show cause issued upon the said petition, having been argued by the solicitors for the respective parties, and duly considered, it is, thereupon by the court, this 18th day of December, A. D. 1907, ordered

of the defendants, or any of them, their agents, servants, attorneys, confederates, or other person or persons acting in aid of or in conjunction with them or which contains any reference to the complainant, its business or product in connection with the term "Unfair" or with the "We Don't Patronize" list, or with any other phrase, word or words of similar import, and from publishing or



another medium of his own preference is all one. Had he carried the copies to California himself, what difference from sending another with his errand?

283 In the February number of the 1908 American Federationist he published over his own name a lengthy editorial concerning the order, which amongst other things stated:

"With all due respect to the court, it is impossible for us to see how we can comply with all the terms of this injunction," and further stated there

"This injunction cannot compel union men or their friends to buy the Buck's stoves and ranges. For this reason, the injunction will fail to bolster up the business of this firm, which it claims is swiftly declining.

"Individuals, as members of organized labor, will still exercise the right to buy or not to buy the Buck's stoves and ranges. It is an exemplification of the saying that 'You can lead a horse to water, but you can't make him drink,' and more than likely these men of organized labor and their friends will continue to exercise their right to purchase or not purchase the Buck's stoves and ranges."

On other pages of the same issue of the American Federationist he published the order itself at length prefacing it by a heading printed in larger type of which the following is a facsimile, as far as the quotation goes:

(Here follows facsimile marked p. 1284.)

285 The evidence is so suggestful of a finding by the Court that this was for the purpose of inducing persons beyond the District of Columbia to violate the injunction and for the purpose of defeating it, that that finding is now made.

In the March, 1908, number of the American Federationist he published in the editorial columns this:

"It should be borne in mind that there is no law, aye, not even a court decision, compelling union men or their friends of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat."

286 In the April, 1908, number this:

"The temporary injunction issued by Justice Gould, of the Court of Equity, of the District of Columbia, in the (Van Cleave) Buck's Stove and Range Company of St. Louis against the American Federation of Labor, its officers and all others, has been made permanent. The case will, now, be carried to the Court of Appeals of the District of Columbia.

"It should be borne in mind that there is no law, aye, not even a court decision, compelling union men or their friends of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat."

And in another column of that issue, this:

"Bear in mind that an injunction issued by a Court in no way compels labor or labor's friends to buy the product of the Van Cleave Buck's Stove and Range Company of St. Louis.

"Fellow workers, be true and helpful to yourselves and to each other. Remember that united effort in cause of right and just—must triumph."

And in the course of a public address to a large gathering of working people in the City of New York, on April 19, 1908, he said:

"They tell us that we must not boycott. Well, if the boycott is illegal, we won't boycott. But I have no knowledge that any law has been passed or any order issued by any court compelling us to buy, for instance, a range or a stove from the Buck's Stove and Range Company. You know that myself and several are enjoined
1287 from telling you, and we are not prepared to tell you, that the Buck's Stove and Range Company is unfair. There are

a number of men who have been having suit brought against them for two hundred and forty thousand dollars. That is not very much, between you and me; but a few hatters in Danbury, Connecticut, are being sued for saying that Loewe and Company, hat manufacturers, of Danbury, Connecticut, are unfair. I am not prepared to say that that is in violation—that they are unfair.

"Of course, in the case of the Buck's Stove and Range Company, if I told you that the Buck's Stove and Range Company was still unfair, when I got back to Washington tomorrow or some place where they say people play checkers with their noses—well, as I say, I am not prepared to tell you that these things are unfair. But there is no law, no court decision that compels you to buy them, nor does any law compel you to buy anything without the union label."

And in the editorial column of the May, 1908, number of the American Federationist, under his own name, at page 383, he said Samuel Gompers published the following statement:

I want to assure you on my word of honor that so long as I live I will never buy a Loewe hat or a Buck's stove or range until these gentlemen come into agreement with organized labor and grant us conditions of fairness. Then they will get support and help. Until then, you may call it by any other name—boycott or no boycott—but I won't buy your hats anyhow."

And in a public address delivered before a large gathering
1288 of working people on to-wit: the first day of May, A. D. 1908, in the City of Chicago, Illinois, made the following statement:

"I might say just parenthetically about the hatters' case that you are not now permitted to boycott the Loewe hats, but I want to call your attention to the fact that there is no law compelling you to wear a Loewe hat, nor has any judge issued a mandamus compelling you to buy a Loewe hat. That applies equally to Mr. Van Cleave's stoves and ranges. And, by the way, I don't know why you should buy any of that sort of stuff, I don't; but that is a matter to which we can refer more particularly in our organizations.

And, thereafter, for the purpose of more widely disseminating the

atement, published the same in the June, 1908, number of the American Federationist, at pages 467 and 468 and in the editorial column of the July, 1908, number of the American Federationist, page 531 thereof, over his own name:

"The Supreme Court of the District of Columbia has made permanent the injunction issued by Justice Gould enjoining the American Federation of Labor, its officers, its affiliated unions and their members and friends from declaring that the Van Cleave Buck Stove and Range Company of St. Louis is on the unfair list of the American Federation of Labor or the publication of that statement in the American Federationist. An appeal will be taken to the Court of Appeals of the District of Columbia, and, if necessary to the United States Supreme Court. The injunction does not compel anyone to buy the Van Cleave Buck Stoves and Ranges, nor has any decree been issued compelling anyone

buy Loewe's hats."

The Court finds from the evidence that all of which was said, all of which was done, all of which was published; all of which was regulated in wilful disobedience and deliberate violation of the injunction, and for the purpose of inciting and accomplishing the violation generally, and in pursuance of the original common design himself and confederates, to

1. Bring about the breach of plaintiff's existing contracts with others.
2. Deprive plaintiff of property (The good will of its business) without due process of law.
3. Restrain trade among the several states.
4. Restrain commerce among the several states.

Since these very charges of contempt were filed against him, Gompers, in the September, 1908, Federationist, published:

"Money makes the mare go, and Mr. Van Cleave's money is making this contempt case go. * * * But labor will rise in its might and crush Mr. Van Cleave and all his money that may work now in the future for restricting labor in its fundamental rights of free speech and free press."

In that same number was the following in editorial:

"We have also witnessed in the past year most serious judicial invasion and usurpation of individual liberty and human freedom by the abuse of the writ of injunction."

"An attempt has been made by the abuse of the writ of injunction to deny and prohibit the freedom of speech and the freedom of the press; and men have been cited to show cause why they should not be punished purely for the right of free press and free speech—rights not only natural and inherent in themselves, but guaranteed by the Constitution of our country, and which our forefathers fought to save, and which a free people never dreamed would ever be placed in jeopardy."

And Gompers, in a public address in Indianapolis, on September 9, 1908, said:

"I want to say this to you and to all that it may concern, that so

long as I retain my health and my sanity, I am going to speak upon any subject on God's green earth, and as a citizen of this country and as editor of the American Federationist, the official monthly magazine of the American Federation of Labor, so long as I am endorsed by labor of the United States with the performance of duties of that office, I will discuss every subject which forms itself to my judgment as being just and right. * * * The injunction which Judge Taft issued while upon the bench is now the basis for the injunction against the American Federation of Labor and its officers and the great rank and file of the Labor organizations of the country, just as in issuing the injunction of the Buck Stove & Range Co. quoted Judge Taft's injunction in support of his, Judge Gould's position. Do you know that about two weeks ago John Mitchell, Frank Morrison and I were three of us hailed to court to show cause why we should not be punished, why we should not be sent to jail for contempt of court. * * * I want to say to you that if the injunction is strictly construed and enforced,

1291 I am in contempt of court again for telling you that, but I propose to discuss this thing, and I do not want to be in contempt of court, but I propose to discuss it. The injunction prohibits me from mentioning the above stove and range company in this case to anybody, either by word of mouth or by letter, or either in letter or circular or any way, but I can't help that. I must discuss it. I will explode if I don't, and I don't want to go to jail but I prefer that to exploding. I don't know what his Honor, the Judge, may do with Frank Morrison and John Mitchell and I * * * The Judge need not give any explanation as to why he finds that a man has not shown good cause, why he should not be punished for contempt of court. He issues the prescribed injunction to its extent; he *hailes* to the court the man who he charges as having violated it, and then he sets the punishment as his judgment, his opinion. If he has had a good night he may be lenient with the culprit; if he has had a bad night, Lord pity the poor fellow; and I suppose good and bad nights are frequently controlled by good or bad evenings before the night."

In a public address delivered in Baltimore on October 26th, Gompers used the following language:

"The injunction issued against me by Judge Gould was based on Judge Taft's decisions. By that injunction I am restrained from talking to you about this case. No labor leader can mention it in speech or circular. I am enjoined from telling you I won't buy Buck's stove or range. But I won't buy one just the same. I am enjoined from telling you there is no law compelling you to buy one; but there isn't such a law.

1292 "Because of this case I am on trial, and may have to go to jail. There is no fun in going to jail, and I don't want to go; for no man would feel more keenly the sting of having his liberty restrained. But the whole world would be a narrow cage were I denied the freedom of speech. I say these things with a full consciousness of what the responsibility may be. But jail or no jail, I'm going to discuss the principles of liberty."

Morrison.

Frank Morrison is, and has been Secretary of the American Federation of Labor stationed at its headquarters in Washington, and as such appeared and took part in the proceedings of the annual conventions of the American Federation of Labor. He was present at the annual convention of 1897, took part in and was acquainted with its proceedings, and under its directions prepared, published and circulated the official report of its proceedings.

He took part in the preparation, publication and distribution, having with full knowledge of its contents signed in his capacity as Secretary the circular letter of November 26, 1907, above quoted.

With knowledge of its contents he aided in the preparation, circulation and distribution, prior to December 23, 1907, of the same copies of the January, 1908, number of the American Federationist that are hereinbefore specified against Gompers and with the same purpose and intent.

He signed and took part in the preparation of and dispatched to each Secretary of the 25,000 to 30,000 unions, along with 1293 the "Urgent Appeal," the circular letter hereinbefore specified against Gompers, with full knowledge of its contents and with the same purpose and intent.

He took part in the preparation, publication, circulation and distribution of the April, 1908, number of the American Federationist, with full knowledge of its contents as hereinbefore specified against Gompers and with the same purpose and intent.

With knowledge and approval of the other writings and speakings hereinbefore specified against Gompers he took part in the circulation and distribution in large numbers of each and every issue of the Federationist containing them, as hereinbefore specified against Gompers and with the same purpose and intent.

1294

John Mitchell.

John Mitchell, is, and was one of the Vice Presidents of the American Federation of Labor, one of the members of its Executive Council and until April, 1908, was President of the United Mine Workers of North America.

The United Mine Workers of North America, an organization composed of approximately 2,700 local unions and 300,000 members throughout the United States, was affiliated with the American Federation of Labor and published an official newspaper called the American Mine Workers Journal.

In a book called "Organized Labor, its Problems, Purposes and Ideals," published in 1903 by John Mitchell, he states:

"Moreover, when an injunction, whether temporary or permanent, forbids the doing of a thing which is lawful, I believe that it is the duty of all patriotic and law abiding citizens to resist or at least to disregard the injunction."

On December 13, 1906, at a meeting of the National Civic Federation, Mitchell said:

* * * "if a Judge were to enjoin me from doing something that I had a legal, a constitutional and a moral right to do I should violate the injunction. I shall as one American preserve my liberty and the liberties of the people even against the usurpation of the Federal Judiciary."

* * * * *
which may aid in determining whether an act in violation of this particular injunction was likely for him, and if *had* was 1295 wilful.

He signed with full knowledge the "Urgent Appeal" which accompanied the twenty-seven odd thousand circular letters to the various Secretaries as hereinbefore specified against Gompers and Morrison; and with full knowledge of their contents, counseling their distribution; and with the same purpose and intent.

On the 25th of January, 1908, at the Annual Convention of the United Mine Workers of America, Mitchell its President being in the Chair, the following Resolution was passed:

"Resolution No. 73.

"Whereas, The Buck's Stove and Range Company, of St. Louis, Mo., have taken legal steps to prevent organized labor in general, and the officers and executive committee of the A. F. of L., in particular, from advertising the above named firm as being on the 'unfair' or 'we don't patronize' list, and

"Whereas, By the issue of such an injunction or restraining order as prayed for by the above named firm, organized labor will be deprived of one of its most effective weapons, and

"Whereas, J. W. Van Cleave, the president of above named firm, also president of the National Manufacturers' Association, stated that in a few years' time he would disrupt organized labor; therefore, be it

"Resolved, That the U. M. W. of A., in Nineteenth Annual Convention assembled, place the Buck's stoves and ranges on the 1296 unfair list, and any member of the U. M. W. of A. purchasing a stove of above make be fined \$5.00, and failing to pay the same be expelled from the organization."

Mitchell testifies:

"I cannot recall anything of the introduction of or passing of the Resolution. By referring to the transcript of the record I see I was in the Chair when the Resolution was adopted.

Q. But you have no independent recollection in regard to it? A. I have not."

The official record of the convention shows that on that day two sessions were held; that when the convention was convened in the morning Mitchell was in the Chair; that when it was called to order in the afternoon Mitchell was in the Chair. The Record shows Resolution No. 73 at length; that delegate Ryan, Secretary of the Committee on Resolutions reported it from that Committee; that on motion of delegate Walker the recommendation of the Committee

was concurred in, the vote being unanimous. Mitchell admits the correctness of the statements of this record.

Stroud testifies that he was a delegate from the Staunton Union, drew the Resolution in Staunton, carried it to Indianapolis and handed it to the Committee on Resolutions; that it was printed and a copy placed on the desks of all the members of the convention; that he was watching for it from a seat in the balcony near the stage, that he distinctly remembers that when it was offered before the convention by Ryan, that Ryan was on the platform ten or twelve
1297 feet from Mitchell, and read the Resolution in a "good clear voice;" that he followed his printed copy as the Resolution was read by Ryan to see if any change had been made; that Walker moved concurrence in the recommendation of the Committee on Resolutions; that the motion was put without debate and declared adopted; and that it is his impression that Mitchell "gave the closest attention to all the details of the convention so far as came within his scope."

Walker, who moved the adoption of the Resolution says he believes Mitchell was in the Chair, he says that he remembers making the motion; that he knows it was declared carried and that he "came away from there satisfied that it was carried all right."

Mitchell does not deny having heard the Resolution; does not deny having put the Resolution; does not deny having declared it carried; he says only, "I do not remember."

We accept his statement that he has forgotten; but what of that? The fact that he undertook and discharged the duties of a presiding officer alone raises a presumption that he attended to the affairs of the Assembly over which he was presiding; a presumption which no mere "*non me recordo*" is sufficiently weighty to overcome; moreover the testimony of the others, the nature of the subject, the identity of the plaintiff and the then position of organized labor respecting it and the publicity then given to the situation render it indubitable that Mitchell was fully conscious of the details of the Resolution and wilfully took part in its passage at the time.

1298 On the 9th day of January, 1908, the Resolution was printed in the United Mine Workers Journal, as Mitchell knew it would be, and by that organ alone disseminated amongst the 300,000 members of the Association whose chief officer and head he was.

In defense of the charges now at bar, neither apology nor extenuation is deemed fit to be embraced; no claim of unmeant contumacy is heard; persisting in the contemptuous violation of the order, no defense is offered save these.

That the injunction

"1. Infringed the constitutional guaranty of freedom of the Press.

2. Infringed the constitutional guaranty of freedom of speech."

These defenses do not fill the measure of the case; the injunction was designed to stay the general conspiracy of which the publication of the "Unfair" and "We-don't-Patronize" lists were but incidents; the injunction interferes with no legitimate right of criticism or

comment that law has ever sanctioned and the respondents' intimation that it does so is a mockery and a pretense.

Upon looking into them for examination there first puts forward that while the Constitution ordains, (Am. 1) "Congress shall make no law * * * abridging the freedom of speech, or of the press," yet there occur also within it certain analogies as well as in legislation all time acquiesced in, nay, demanded by the people, certain illustrations which demark the meaning of the provision.

Thus (Const. Am. II) " * * * the right of the people 1299 to keep and bear arms shall not be infringed"; yet who disputes the validity of laws throughout the land penalizing the carrying of concealed weapons? Or if one kept an array of firearms so persistently trained against his neighbor's door-yard as to terrorize all persons from coming out and going in, thus impairing the utility of his dwelling, who will be found declaring that an injunction to remedy such condition of things is a "violation of constitutional rights"? The constitution itself *confers* upon the people no right to bear arms, the right is aside from the constitution; the constitution does no more than inhibit Congress from in the name of the National Government infringing the right, as elsewhere defined and ascertained; leaving the right to be regulated or even prohibited by the several States, within their respective dominion, if such be agreeable to the judgment of their people.

So with respect to the inhibition against abridging the freedom of speech or of the press: the constitution nowhere *confers* a right to speak, to print or to publish; it guarantees only that in so far as the Federal Government is concerned *its* Congress shall not abridge it and leaves the subject as the other to the regulation of the several States, where it belongs. Who can be persuaded that the penalizing of false and malicious libels upon the integrity of honorable men, or slanders upon the virtue of chaste women, is an outrage upon "the constitutional rights," of the vilifier?

1300 Do those of thoughtful and sincere reflection escape the unharmony between claims for a right of utter license in speech and press and the punishment by law of libels and the mulcting of slanders? Let us turn over this matter. Libel being punished criminally, it is because that publication was against law; therefore unlawful; therefore without right; if in civil actions slanders are mulcted by law, it is because that speech was an infraction of the rights of another, therefore a wrong by the first; no "right" to publish either the libel or the slander can be sustained, except upon the theory of a "right" to do "wrong." Let it be true that the common law had fully evolved a "Right of freedom of speech and of the press," yet in evolving this right it also identified it; identified and maintained not only the "right" of free speech but as well identified and condemned the "wrong" of it; and identified the "wrong" of it not alone in "Libels" and in "Slanders" but in some other regards; no claim to "right of free speech" has served him who by the freedom of his speech obtained money by false pretenses; nor has a "right to print whatever he will" been ever of avail to forgers and counterfeiters. Howsoever the people of the several

States by their several Constitutions and laws have found it best to retain, to broaden, or to restrict the common law in this field which, as above pointed the federal constitution abandons to their charge, yet the common law still maintains in this district here; (for I know of, and have been pointed to, no legislation therein on the subject)

and therefore pursue its principles a little further, in their application to the particular matter: being concerned to identify an established subject of equitable intervention rather than subjects which are confessedly outside the limits of its legitimate scope.

It is no more suspected by the observant that Courts of equity enjoin the commission of mere threatened crimes, than they are suspected to hesitate in enjoining certain infractions of property rights although happening to be conceived or involved in crime; these infractions are limited to infractions of such a particular nature as that after their perpetration the law has no remedy adequate against their results.

Finding in the common law that not all writings, not all speakings are lawful, that some are unlawful, and looking about for the particular rule which is competent to distinguish the lawful from the unlawful I deduce it from all considerations to be this: whatever in writing, print or speech violates a legal right of another, is unlawful; whether in itself alone it accommodates that result, or whether it be but one instrument in a concert tuned to that end. If such a writing, printing or speaking is unlawful, the rest is clear; it ought to be enjoined in advance, if either it alone, or the concert, so invades rights of property as that the law affords no remedy adequate to compensate for the results: nor would I yet be thought to consider that the process of injunction of right should go no further; that the inestimable advantage of a good name may not thus be rescued from pre-conceived despoilment; but of such questions when they come.

An elaboration of these arguments would usually be quite agreeable to my desire, yet these suggestions sound the hollowness of the defense and to essay more might savor of an inquiry into the correctness of the injunction ordered by Mr. Justice Gould, a duty already taken up and discharged by abler hands than mine.

While the foregoing considerations put away the contention that the injunction invades the right of free speech and of the press, yet the position of the respondents involves questions vital to the preservation of social order, questions which smite the foundations of civil government, and upon which the supremacy of law over anarchy and riot verily depend. Are controversies to be determined in tribunals formally constituted by the law of the land for that purpose, or shall each who falls at odds with another, take his own furious way? Are causes pending in courts to be decided by courts for litigants; or the view of each distempered litigant imposed upon the courts?

Are decrees of courts to look for their execution to the supremacy of Law, or tumble in the wake of unsuccessful suitors who overset

them and lay about the matter with their own hands, in turbulence proportioned to the frenzy of their disappointment?

Counsel are heard claiming that no one needed to obey the order, although no reason is brought save those already looked at; no discussion of the technical distinction between "void" and "erroneous" orders was undertaken although invited, wherefore my con-

1303 ceptions of this particular are destitute of the advantage to be had by considering the views of my brethren of the bar.

Had claim been made that the injunction was "void" it had involved a claim that the court was without either

1. Jurisdiction of the parties, or without

2. Jurisdiction to issue injunctions; for the propriety of relief by injunction was the subject matter of the controversy.

Jurisdiction of the parties it had, for they attended before it; that it had jurisdiction to hear suits for injunctions and to determine upon their issuance no one is willing to gainsay; indeed the Sherman Act before quoted provides in very words (1 Sup. 703)

"The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this Act."

And the Code of Laws for the District of Columbia respecting this tribunal, (Sec. 61)

"The said court shall possess the same powers and exercise the same jurisdiction as the circuit and district courts of the United States, and shall be deemed a court of the United States" and (Sec. 62)

"The Justices of said court—shall severally possess and exercise the jurisdiction possessed and exercised by the Judges of the circuit and district courts of the United States."

That the order was "void," according to the technical
1304 criteria by which the law determines "voidness" no one has shown me a pretense; yet under technical "voidness" alone, can parties escape the duty and the necessity of obedience; were it concededly "erroneous," in the sense that the tribunal had fallen into an error in the determination of a cause which it was invested with jurisdiction to "hear and determine," the duty and necessity of obedience remains nevertheless the same. And I place the decision of the matter at bar distinctly on the proposition, that were the order confessedly erroneous, yet it must have been obeyed. (Worden vs. Searls, 121 U. S. 14.)

It is between the supremacy of law over the rabble or its prostration under the feet of the disordered throng.

The interpretation of the law of a matter by an appropriate judicial tribunal settles that matter between the parties; else there is not anywhere to be had a settlement which takes impartial account of both sides; even if it be said that tribunals now and then fall into error in particular matters, yet this error lies in the incomplete and finite nature of worldly things, and should not overturn the rule; for the rule being the best attainable by finite man, holds better results for the social fabric, more promotes the general wel-

fare than would any other rule; for any other rule would be not the best rule, but somewhat worse. It is to the end that errors so falling may be minimized by possible correction, that tribunals for review are established for the advantage of a party who has such claim to make; but meanwhile the decree fixes the law's seal upon the matter, there to remain until removed, if at all, in the manner of order; not by riotous hands.

When, with the parties to this cause in attendance, their dispute heard, and the status of the subject of the controversy examined into, the inhibitory process of this tribunal issued forth, it was the law's command to—"Stand! Hands off! until justice for this matter can be ascertained."

Is not Law wide enough, and its shield broad enough to avert ruin annihilation that which its tribunals have taken in hand for the very sake of decreeing whether it shall not be saved?

Yet everywhere; all over; within the court and out; utter, rampant, insolent defiance is heralded and proclaimed; unrefined insult, coarse affront, vulgar indignity measures the litigants' conception of the tribunal's due wherein his cause still pends.

Before the injunction was granted these men announced that either they nor the American Federation of Labor would obey it; since it issued they have refused to obey it; and through the American Federation of Labor disobedience has been successfully achieved and the law has been made to fail; not only has the law failed in its effort to arrest a widespread wrong, but the injury has grown more destructive since the injunction than it was before. There is a studied, determined, defiant conflict precipitated in the light of open day, between the decrees of a tribunal ordained by the government of the Federal Union, and of the tribunals of another federation, grown up in the land; one or the other must succumb, for those who would unlaw the land are public enemies.

On the sociological aspect of the situation, some faith in the ultimate rightness of American men, whether in Labor Unions or out, is to be entertained: for I believe that the habit of the land saturates them with a readiness to abide by authority, as I believe that this very readiness to yield to authority has undone them before now, through the errors of misguiding leaders, swollen by guilty power: it stands in the nature of things that the unlettered be most sensible of that authority which most often shows itself in their modest affairs, although a higher may exist to which their attention is not every moment directed by some interference with them, but to which they stand ready to adhere upon the moment that shows them that the lesser authority was in mistake, or leading them awrong. It is written in this record that the labor unions and its officers meddle into a member's daily affairs deeper than does the law; restrict him in matters that the law leaves free; and thus continually crowd their authority upon his attention, that insensibly he comes to regard them as of first control in his affairs; the fact, that he regards them as authority, leads him to heed them because of his readiness to yield to authority; his very respect for authority, assumes that all authority is respectable; and so upon

them he relies, by them he is led. What knows the worker in Texas, Florida, Maine and Oregon of the merits of the original controversy of 36 metal polishers in Missouri? What knows he of the refined distinctions about "Boycott," "Conspiracy," "Injunction," and

1307 the "Voidness for want of jurisdiction," of Judicial Decrees!

In respect of each of these and of the original controversies, he has been betrayed: (App. A) hoodwinked into the stand of an enemy of law, and of social order. Announcing freedom to purchase what and where one will, they deny that right to him himself; proclaiming the right of all men to labor, they restrict it to the holders of a union "card;" declaring the right to enjoy full earning capacity, they limit his daily earnings to a stated sum.

Says the authority of law, "I lead you by the truth:" says the other, "I lead you by a lie:" says one, "I stand for the obligations of contracts, including yours:" the other, "I throw down contracts, even though yours:" says one, "I am for law," the other "I unlaw."

That the universal recognition, the desirability of associations of craftsmen for the ascertainment and advancement of the welfare of their kind is so retarded is to be much deplored; yet it is in the history of man, that some lessons must be unlearned; that systems which proceed in antagonism to rule, shatter themselves at length against the resistless barrier of public law.

It would seem not inappropriate for such a penalty as will serve to deter others from following after such outlawed examples; will serve physically to impose obedience even though late; will serve to vindicate the orderly power of judicial tribunals, and establish over this litigation the supremacy of Law.

WRIGHT, *Justice.*

1308

APPENDIX A.

The assurances in the original "Special Notice" and other literature about "due investigation" having been had were likely to mislead the 2,000,000 members into believing that the rules of this organization had been complied with; thus

(Extract from Gompers report to the Convention of the American Federation of Labor held at Chicago in December, 1893.)

"The Executive Council has adopted a rule which it regards as fair as well as safe, and which is here quoted, so that the decision of the Federation may be a guide for the future action of our officers, regardless who they be. It is as follows:

"Resolved that it is the sense of the Executive Council of the American Federation of Labor that contracts made by unions with their employers should be faithfully lived up to by the union, so long as it is not violated by the employer, and the occurrence of any trade dispute with such employers by their unions out of not having contracts shall not be cause for the violation of agreements by such unions as have regular contracts. The Executive Council further decides that when making contracts, unions should consult and act in harmony with all unions with interests at stake."

(Extract published at the head of the "We-don't-Patronize" list in the Federationist.)

"When application is made by an International Union to the American Federation of Labor to place any business firm upon the "We-don't-Patronize" list the International is required to make a full statement of its grievance against such company, and also what efforts have been made to adjust the same. "The American Federation of Labor either through correspondence or by duly authorized representatives seeks an interview with such firm for the purpose of ascertaining the Company's version of the matter on controversy."

In his report to the Convention of 1908, Gompers stated:

"* * * pursuing in the usual course followed in cases of appeals of this character, I caused an investigation to be made and made further investigation myself, and had a representative of our Federation endeavor to bring about an honorable adjustment of the controversy between the organization primarily in interest and the Company—then that my colleagues and myself, the Executive Council, approved the position and action of the organization affected, and this fact was published in the American Federationist."

In refute of these statements, in his testimony appears:

"Q. Did you attempt to communicate in regard to this matter with Mr. Van Cleave, or any representative of the Buck Stove & Range Co? A. Not directly."

Pressed by cross examination to disclose either the truth or falsity of his published official statements, the next question was:

"Q. By letter or personal communication? A. No sir; only through Mr. David Kreyling."

This was the same Kreyling, Secy. of the Central Trades and Labor Union, who had taken part in the conference with Van Cleave; and Kreyling in testifying refutes the pretense that Gompers had so communicated with him.

Indeed, Gompers was so without information about the merits of the original controversy that he made oath in testifying.

"I know, as well as I know anything, which I have not seen, that no such agreement existed between the Metal Polishers' Union and the Buck Stove and Range Company, or the Stove Founders' National Defense Association."

APPENDIX B.

VAN C.: Well, gentlemen, what can I do for you?

KREYLING: I am representing the Central Trades and Labor Union and I have come here to see if we can bring about an adjustment of this matter. We have been asked to endorse the action of the Metal Polishers, and before doing so we make such visits and very often we have been able to adjust them and avoid all further trouble. Now that is simply why I am here.

VAN C.: I think that is eminently proper.

KREY.: To get your side of the story.

VAN C.: The most amusing part of this whole matter to us is the

false attitude in which the Metal Polishers have put themselves. The statements that they have sent out asking the cooperation of affiliated Unions are almost wholly false. As I shall undertake to show you. I take it for granted that this is about the way this matter has been put before you and other labor unions throughout the country, because we have received a number of these letters, which read as follows:

"I desire to inform you that this firm (meaning the Buck Stove & Range Company) is unfair to Organized Labor. The Metal Polishers, Buffers and Platers were compelled to go on strike on account of the unfair treatment at the hands of this firm. The members of the above Union had been working nine hours per day for the past 18 months and the firm tried to force them to work ten hours per day.

(That is utterly and absolutely false. There is not one iota of fact in that statement.)

1312 (Above letter continued:)

"I would be pleased to have you return the goods shipped to your firm, also notify Mr. Van Cleave, the manager of the Buck's Stove & Range Company, that your firm will refrain from making any further purchases from them until they treat their employees as they should be treated, or as other manufacturers do."

Now you see there is a complication that is so wholly false that it is strange to me that men put themselves on record in that way. give you gentlemen the credit of being absolutely sincere in coming here and that you want the real facts from our side.

KREY.: That is what we are here for as representatives of the Central Trades and Labor Union and Metal Polishers.

VAN C.: Here is a funny thing, a letter coming to us from a Local of the American Federation of Labor in October notifying us that our goods had been put on the "unpatronising" list and then setting forth these statements which have been made as the foundation for it. The American Federation of Labor I do not suppose has acted upon this matter yet.

LUCAS: I think it has.

VAN C.: Has it? Now, then, the real facts in this case are these. The latter part of last year, through the action of our foreman, whom we had in our polishing department, we discovered along some time in November that our Polishers were quitting work at five o'clock, when the balance of our plant was running ten hours. I immediately made inquiry and found out that some little time they

1313 had been doing this contrary to our rules. About the close of last year I called all the polishers into my assembly room and told them what they had done, that they had tried to steal a nine hour day, and that we would not stand for it, because a majority of the stove foundries in this district (the western district) were running ten hours, that the balance of our foundry, and all of our machinery were running 10 hours. And I said to them, there is another thing that we don't stand for and that is the limitation of your earnings. We regard the man that will rob his own wife and children of his earning power the biggest

fool on the face of the earth, and we do not want it, and I gave them to understand that when we started up in January, after our repairs and the holidays, that our shop would run 10 hours, and you will work 10 hours, and if you don't want to do that don't come back, thus giving them about three weeks' notice. Well they had a meeting in their Union and chewed the rag for a while and then decided that they were all coming back under protest. I did not get any notice of this, however, from the Union, and I do not think the men knew this. They went to work and seemingly worked very contentedly from January to the 27th of August, 1906. Our men earned more money than they ever earned before in our shop. The majority of the men who went out of our shop were earning from \$4.00 to \$5.25 per day. Our shop conditions are as good as we know how to make them, and the men will all say that we have the best shop conditions in the City of St. Louis.

Then along the early part of August Mr. Grout, the President of your organization, wrote to No. 13 and told them to pass a resolution and instruct the men working in our shop that they would quit promptly at Nine hours. He did that, but I had no notice of it. The men were doing well and they were well treated and they thought the whole matter had been ended, and furthermore, in addition to that there are statements being made by Leberman in sending out his notices to affiliated Unions that we are requiring our men to work ten hours for Nine hours' pay. Now that is not true, because the men are all piece workers and they get all that they earn, and they get fairly good wages, \$4.00 to \$5.25 per day.

LUCAS: Yes, that is good wages.

VAN C.: Now, gentlemen, my position relative to wages has been that under no circumstances would I stand a moment for an unfair price. Then I ask that our men be fair to me and that they earn all they can. The idea of limiting a man's earnings is perfectly ridiculous, because God never made two men alike. Some men earn \$3.00, some \$4.00 and some \$5.00; that would not signify that the \$3.00 price was unfair, but simply incompetency. This man Leberman is sending out misleading statements to affiliated Unions and I am very glad indeed to have you gentlemen come here because I want to show you.

We are members, as you know, of the Stove Founders Defense Assn. This matter of a nine hour day was taken up on the 27th, 28th and 29th of June, 1906, between the Conferees of the National Metal Polishers Union and the Conferees of the Stove Founders Defense Assn. They spent three days on this subject, in Chicago. The result of it was that after a good deal of hallowing and bellowing, they could not agree and the matter was laid over.

Now, then, the reports of the Executive Committee of the Defense Assn. show that out of the membership of the Defense Assn. that 41 members are running 10 hours a day, 10 members 9 hours, 2 members 9½ hours, 1 member 56 hours per week, 4 members non-Union, 3 Open Shops, and 4 under contract work. It was also shown

that every member of the Defense Assn. in this district was a ten hour shop, all of our competitors around here.

KREYLING: Why the Belleville Stove Works are running nine hours and they are members of the Defense Assn.

VAN C.: Are they? I didn't know that. When you view this matter from the standpoint of the Conference Agreement between the two National Bodies, one of which we are members, it does not seem strange to me that Mr. Grout and his executive Committee would order Local No. 13 to arbitrarily call a strike on us here when the real object that he should have had in view was to have a conference with the Defense Assn. whereby all shops under the jurisdiction of the Defense Assn. should be put on a nine hour basis. Again we cannot run our shop ten hours a day, machinery 10 hours a day and have 15 or 20 polishers quit their work, and leave the machinery running, at nine hours. So that the proposition becomes an unfair one, as we look at it, and not based upon good judgment or good faith.

Take the Iron Moulders' Union many years ago. The Conference Agreements that they have with the Defense Association, 1316 were all brought about by compromises on both sides until a good level was made. That is the way that Mr. Grout and the Metal Polishers can get an agreement as to the nine hour day. The result of it is now, that he has taken this action. He has authorized the local here to put on a local Boycott. Leberman has taken it into his hands and sent out to every affiliated Union requesting their support, as I understand it, without Mr. Grout's recommendation as to a National Boycott. Now then that puts the Defense Association in the position of fighting this thing to a finish, which they have agreed to do. Now, then, of course, if you people have affiliated Unions endorse such unfair propositions as that, why, of course, it is coming to a show down, and public opinion is rapidly changing on these matters.

I believe, and recognize the right for every man to quit work whenever he pleases, for any cause, or for no cause on earth. We are free men, free country, but when he quits work and then forms himself into a self-appointed committee and undertakes to picket a foundry, he is then a criminal. You took offense at what Mr. Post said. That is just what he meant.

KREYLING: If they would only explain it that way in public, but when they make the statement so broad as to include everybody that has any connection with the Labor Organizations, we cannot stand it.

VAN C.: You simply want me to set forth these facts, and as I say, it brings the matter to a point of the Defense Assn. de- 1317 fending this matter, not the Buck's Stove & Range Company, because it is in violation of the spirit of the Conference Agreements. If you demand something of the Defense Assn. and they cannot agree upon it, experience has taught us that if you keep at it, in the course of time justice is reached, but these men now propose to force this action, and in order to do it, they have asked you, as affiliated Unions, to endorse the Boycott. If you endorse this Boycott, then in my opinion you come squarely in line that what Mr.

Post charged you. That is the sense in which Mr. Post referred to this time.

Now when a labor Union in Ohio, or in Texas, or in Oklahoma, endorses this proposition upon the statement of Leberman, which is false and can be proved so, why they get into pretty harsh lines before they get through. Now that is really my side of the question, except this, when these men went out of our shop and when they left us, they had my sympathy, but there were two or three agitators in the shop, and when they undertook to picket our plant, by this action of theirs they cut loose from me all the sympathy that I ever had for them, and we have succeeded in filling our shop and do you know we are turning out more nickel than we ever turned out with these people here, I can prove it to you, and paying them the same prices.

BECKER: If I am not misinformed, the members of the various Polishers Unions throughout the country only work nine hours per day.

VAN C.: That may be true, but we are members of the Stove Founders' Defense Assn.

318 BECKER: The Belleville Stove Works are only working nine hours.

VAN C.: Is that so? Well, it is a very unfair proposition for the Belleville Stove Works to do this, if it is true, and in all probability they were forced to do so, but when they tried to do it here they ran against a different man.

Mr. BECKER: Yes, they were. If the Polishers were all piece workers, I do not see how nine hours would make any difference.

VAN C.: It would. There is another fact, that notwithstanding that our shop was running 10 hours, the men were not doing nine hours' work.

LUCAS: That nine hour statement came around like this, unless we are misinformed, the men were informed that whenever they got the amount of \$4.00 earned to go home regardless whether it was nine hours or ten hours, that is what Little said, and he said that it was with your knowledge and instructions.

VAN C.: If Little said that, I want to denounce him here as being a liar and traitor to his company, and that it was contrary to our instructions. There is not one single word of truth in that statement. Now, then, this young man (pointing to Lee Van Cleave) was present at every meeting (which were held daily and at which Little was present, and can verify the statement that this is contrary to our rules, and if Little said that we authorized the men to do that, he was a traitor to us and he is a liar when he makes that statement.

319 LUCAS: Well, he said that you were satisfied if the men turned out \$4.00 worth of work for them to go home.

VAN C.: I would no more sanction a man's limiting his earnings than I would to fly and I have said to every man, and I say to you, that a man is a consummate fool that will rob his wife and children of his earning power. I allowed Mr. Little to piece our work. I said

to Little, now I do not want a cheap price, because I want good work, and I want a fair price put upon this work.

KREYLING: I believe that you have been misinformed when you have been informed that Mr. Grout was the one that ordered this strike. No doubt this matter came about like this, that when the local Organization drew up these demands and decided for themselves, after they had acted on the matter they asked for the endorsement or approval of the International Executive Board, that was granted.

VAN C.: Didn't Grout send a letter to Local No. 13 as per the statement that I have made?

LUCAS: Yes, similar to that.

KREYLING: The Metal Polishers No. 13 Local have demanded from The Buck's Stove & Range Company to grant the nine hour day.

LUCAS: Didn't Mr. Grout come up here and visit you several times in reference to that?

VAN C.: Yes, quite a while back.

LUCAS: We understood that Mr. Grout had been up here to visit you, and the nature of the visit was to try and bring about an understanding as to the nine hour day. He could not come to a settlement, and he reported back to the Local.

VAN C.: He took it up with the Defense Association.

KREYLING: If I understand it right, it is merely a question of asking the Buck's Stove and Range Company to grant the Metal Polishers the nine hour day. Now as yet you have gotten away from the question with all these other matters in, I have not heard Mr. Van Cleave give any reason why the Buck's Stove & Range Company refuses to grant the nine hour day only that you claim the other part of the foundry are working 10 hours.

VAN C.: All of our competitors in St. Louis are working ten hours, and the majority of our competitors in this district are working ten hours and besides the Defense Ass'n is the one to adjust this matter.

KREYLING: The action of the Defense Ass'n leaves it open for the Metal Polishers to come to any final conclusion on the matter they wish. Now we certainly will grant the right to any Local Organization to try and shorten their hours if there is any possible chance to do so.

VAN C.: I have no objections to any shorter hours.

KREYLING: In the beginning of your conversation you admitted that the polishers had worked nine hours for 18 months.

VAN C.: No, I said that was false. They did not work three months.

KREYLING: They worked nine hours for quite a while.

VAN C.: Only a short time.

LEE VAN C.: If they quit when they got through working, it was not a nine hour day.

1321 KREYLING: If they continued that for some time, why it was.

VAN C.: There is no use to talk to me that way.

KREYLING: I just want to find out whether or not it would make any difference to you in running your foundry for 25 of the men to work nine hours or ten hours?

VAN CLEAVE: It makes a very material difference.

KREYLING: The point that I am trying to show you is this, there is certainly not much difference to you if these men were working nine hours a day and the other part of your foundry working ten hours.

VAN C.: I want to be fair, but it is not fair for you to undertake to argue that we can run all of our foundry 10 hours a day and allow 25 polishers to work nine hours. It is not fair for you to undertake to say that we ever sanctioned the nine hour day, because Little permitted these men the latter part of 1905 to leave the shop at all hours between 4:30 and 6:00 o'clock.

LUCAS: He was a representative of the firm, as foreman, and it was looked upon that you were satisfied for the men to go home whenever they got through with their day's work.

VAN C.: Now then, I never agreed to that, and I have got evidence to prove that he was lying. It is absolutely false.

KREYLING: Do you realize, Mr. Van Cleave, that the request of the Metal Polishers at this time, and has been since the beginning of this controversy, is the nine hour day? The point is this: 1322 The Buck's Stove & Range Company are not willing to grant the nine hour work day until the Defense Association grant it.

VAN C.: If the Defense Ass'n agree to the nine hour day to-morrow, I would put our entire shop on a nine hour basis at once.

KREYLING: You admit that there are none of the members of the Defense Ass'n working nine hours a day?

VAN C.: I have just read the number of concerns working 10 hours and also working nine hours.

KREYLING: Now the Defense Association certainly gives the privilege to all of its members to do as they like in that matter.

VAN C.: We cannot do it. Now the Metal Polishers will probably get the nine hour day sooner or later, but I cannot turn this shop into a nine hour shop today under the present situation and it is not fair to ask me to do so.

KREYLING: This is a matter that is based on the shortening of hours from ten to nine hours. Of course, if you have made up your mind that you cannot see your way clear to grant this, it would be useless to take up any more of your time, and especially when you are not willing to listen to an argument. Any argument that we make you call it a fallacy.

VAN C.: If a foreman goes beyond his instructions and violates his instructions and does it in secret without the knowledge of the Company, it is like any other man that is untrue to his firm.

KREYLING: The firm will be held responsible as long as he is in that position. As I say, it would be useless to take up any 1323 more of your time if you have made up your mind that there is no way to grant the nine hour day.

VAN C.: I will grant the nine hour day when the Defense Ass'n agrees to it, and will make the entire shop a nine hour day shop

when they have reached this decision, and I think that is as much as you should ask of me. I am not unfair to labor at all. There is not a man in this country that appreciates his workmen more than I do.

KREYLING: There are lots of firms in this town that have granted the nine hour day, some of them have done so without being asked to do so by the Organization.

VAN C.: That does not mean that the 10 hour day is unfair and that the nine hour day, or that the eight hour day, is the only fair man in the lot. I think if you people will broaden out a little you will see that you are the ones that are unfair, not us.

KREYLING: We are responsible for our actions, if not as an Organization, as an individual, and I am willing to stand for my action at any time. We will take it for granted that you absolutely refuse to grant the nine hour day at this time?

VAN C.: I will grant the nine hour day when the Defense Ass'n does so. At such time that the Defense Ass'n agrees to the nine hour day, we will put our entire shop on the nine hour basis. When it comes to a point that we agree with any Department to run nine hours, then we will put our entire Foundry on that basis. Now this is a fair proposition to me, and I cannot in honor grant it as long as I am a member of the Defense Ass'n under present conditions. When the Defense Ass'n agrees with the Metal Polishers to a nine hour day, we will put our entire shop on nine hours. That is my position.

KREYLING: Of course the Metal Polishers are not responsible for the fact that the other Unions are not asking the nine hour day. We should not ask them to wait until somebody else made up their minds. We are justified in going out at any time and get it if possible.

VAN C.: You have the right to ask it and get it if possible, but I do not think it right to single out one Institution and strike this Institution. Why don't you declare them unfair?

KREYLING: It is not the fault of the Metal Polishers' that this case is brought against the Buck's Stove and Range Company. Your foreman tolerated the reduction of hours in your polishing Dept. and let it go on for some time.

VAN C.: If the foreman does things contrary to my instructions and without my knowledge, and it runs on for a short time, why we cannot be held responsible and it does not establish a fact by any means. I am perfectly willing to abide by any agreement that the Defense Ass'n may enter into with the Metal Polishers, and it would not make a particle of difference to me if they entered into it tomorrow, but until they do, I am not in a position to grant the nine hour day. When I heard that you were coming in here, I had hoped that I would come in contact with fair men, but your proposition is anything but fair.

KREYLING: If you had an idea before I came in here that I would be fair to you and unfair to the people that I represent, you were badly mistaken.

VAN C.: Well, it appears that I was.

KREYLING: Am I to understand, Mr. Van Cleave, that you are willing to arbitrate this proposition?

VAN C.: The Defense Ass'n will take it up I cannot take it up. The matter was discussed in June with the Conferees of the Two National Organizations. They did not agree. Now then certain action was taken and then the Defense Ass'n stepped in.

BECKER: Those members of the Defense Ass'n who are working nine hours a day, are they not unfair to their Association?

VAN C.: There is another point. I will show it to you. If this matter had never gone to the Defense Ass'n or if I had granted the nine hour day last year, or the year before, without discussing the matter of taking it up with the Defense Ass'n, then I might have done so, but having once given it to the Defense Ass'n then it is out of my hands. I could not today do what you ask me to do without stultifying myself with the Defense Ass'n. If Mr. Grout wants it done, he can get a conference with the Defense Ass'n. If you people undertake to run a Boycott and injure our business here, why there is absolutely no fairness in your proposition.

BECKER: This matter would certainly adjust itself provided you were willing to grant the nine hour day.

VAN C.: I am willing to grant the nine hour day provided the Defense Ass'n agrees to it. You cannot force this Company 1326 to run nine hours. This Company will run ten hours as long as its competitors in the district do so. Those who are members of the Defense Ass'n.

LUCAS: Regarding what you say, now suppose that we were starting in the stove manufacturing business and would not be a member of your Ass'n, we would be competitors of yours. Now do you think that you would do anything to help us along, or would you do everything you could to put us out of business?

VAN C.: My friends, the relation that exists between myself and the other stove companies is equivalent to though we were inter-laced stockholders. We do not try to put them out of business. Now the Metal Polishers say that we are requiring our men to work ten hours for nine hours' pay. That is not true.

LUCAS: I think there is some mistake about that, because you do not ask that, and I for one would not tolerate anything like that.

VAN C.: I am in receipt of a letter this morning which says (this letter is from a salesman): "The Unions have received a general letter from the National Ass'n which outlines the difficulty we have had in our nickeling department, in which they state that we have forced our men in said department to work ten hours for the pay of nine, which is contrary to an agreement into which we had entered; so they say." The truth of the matter is no sort of an agreement as to nine hours was ever made with them and we did not agree on nine hours. With a little bit of justice to Little (and you know that I have no patience with Little) it may be possible that he permitted the men to do this, by saying, now boys, you 1327 can figure up your days work just as well as I can. Now take out \$4.00 a day and when you get through with it, so far as I am concerned, you can go home.

LUCAS: He claimed he did it with your consent.

VAN C.: That is not true, for he did not do so with my consent.

LEE VAN C.: I do not believe that Little made that statement.

VAN C.: Did Little make it to you?

LUCAS: No, not to me. But they claim that he said he did so with your authority.

VAN C.: Why do you people refer to that when we emphatically deny the fact?

LUCAS: You admit that the men had been going home before the expiration of ten hours?

VAN C.: When I discovered it, I checked it then and there. The main objection that we got to it is founded on two things. One is that it is not the rule in this section of the country among stove manufacturers. Another is, we are members of the Defense Ass'n. This matter has been put up to them, and it is out of our hands. If Grout had handled this with the Defense Ass'n, he would have certainly have gotten the nine hour day.

LEE VAN C.: Granting the nine hour day, does not make us fair or unfair.

KREYLING: Granting the nine hour day to the Metal Polishers at this time would put you in a fair light with that organization.

VAN C.: Now then I think that the Metal Polishers are
1328 unfair inasmuch as they are in a signed agreement with the Defense Ass'n, and all of these matters can be adjusted by conferences. The proper way for them to do is to ask for another conference and discuss the thing again. When they have once agreed to it, there will never be another reference to it. I do not think it will be two years before all the stove shops will be on a nine hour basis.

BECKER: You must never forget the fact that your Ass'n and your class of people are not buying your stoves. They have steam heat, and the working men are using the stoves.

VAN C.: Now, there is no use for you to talk like that to me. Gentlemen, you can do as you please about it.

1329

Decree.

Filed December 23, 1908.

In the Supreme Court of the District of Columbia.

No. 27308. Equity.

BUCK'S STOVE AND RANGE COMPANY

vs.

AMERICAN FEDERATION OF LABOR ET AL.

Now come the parties, by their attorneys, and the respondents Samuel Gompers, Frank Morrison and John Mitchell in their proper persons, and this cause having been submitted to the court on, to wit, the 17th day of November A. D. 1908, upon the petition of the

complainant for a rule upon the respondents Samuel Gompers, Frank Morrison and John Mitchell to show cause why they should not be adjudged in contempt, the answers of the said respondents and the testimony taken thereunder, and after full argument by the solicitors of the parties, respectively, and the same having been duly considered by the court, it now finds the fact to be that, on or about the 24th day of January, 1908, while the injunction *pendente lite*, of December 18, 1907, was, and was by them known to be, in force, the said respondents published and caused to be widely disseminated a paper signed by them, and which they caused to be accompanied by another paper, therein referred to as an editorial from the February, 1908, Federationist, which papers, in violation of the express mandates of the said injunction, made reference to the fact that a boycott had been declared against the complainant, its business and its product, and that organized labor had asked its friends to use their influence and purchasing power in aid thereof, alleged that the said injunction was an invasion of the liberty of the press and of free speech, and declared that it could not "compel union men or their friends to buy the Buck's stoves and ranges," and that "for this reason, the injunction will fail to bolster up the business of this firm, which it claims is so swiftly declining;" that, on or about the 25th day of January, 1908, the respondent John Mitchell, in like violation of the said boycott, combined with sundry persons, acting in aid of and in conjunction with himself and others of the defendants, in calling attention to the said boycott, and in giving notice that anyone of the 300,000 members of the United Mine Workers of America who should purchase a stove of the complainant's manufacture should be fined therefor and expelled from the said organization if the fine were not paid; that in April, 1908, when the permanent injunction of March 23rd, 1908, was, and was by them known to be, in full force, the respondents Samuel Gompers and Frank Morrison, in violation thereof, published in the said American Federationist, and widely disseminated, a letter, signed by them and addressed to the numerous state branches and central bodies of the defendant the American Federation of Labor, requesting them to "Bear in mind that an injunction issued by a Court in no way compels labor or labor's friends to buy the product of the Van Cleave Buck's Stove and Range Company, of St. Louis. Fellow workers, be true and helpful to yourselves and to each other. Remember that united effort in the cause of right and justice must triumph;" and the court further finds as a fact that the respondents Samuel Gompers, Frank Morrison and John Mitchell are guilty of the several acts charged in paragraphs 17 and 26 of the complainant's petition, that the said respondents Gompers and Morrison are guilty of the several acts charged in the 16th and 20th paragraphs of the said petition, that the respondent Morrison is guilty of the acts charged in the 25th paragraph of the said petition, and that the respondent Gompers is guilty of the several acts charged in the 19th, 21st, 22nd and 23rd paragraphs thereof.

And, the court being fully advised in the premises, it is by it, this 23rd day of December, A. D. 1908, considered that the said

respondents Samuel Gompers, Frank Morrison and John Mitchell are guilty of contempt in their said disobedience of the plain mandates of the said injunctions; and it is, therefore, ordered and adjudged that the said respondent Frank Morrison be confined and imprisoned in the United States Jail in the District of Columbia, for and during a period of six months, that the said respondent John Mitchell be confined and imprisoned in the said jail for and during a period of nine months and that the respondent Samuel Gompers be confined and imprisoned in the said jail for and during a period of twelve months, said imprisonment as to each of said respondents to take effect from and including the date of the arrival of said respective respondents at said jail. From the foregoing judgment each of the said respondents prays an appeal to the Court of Appeals of the District of Columbia, which is allowed, and the penalty of the appeal bond fixed at One Hundred Dollars, and the penalty of the bail or appearance bond of respondent Frank Morrison is fixed at \$3,000.00, the bail or appearance bond of the respondent John Mitchell is fixed at \$1,000.00, and the bail or appearance bond of the respondent Samuel Gompers is fixed at \$5,000.00.

WRIGHT, *Justice*.

Memoranda.

December 23, 1908.—Appeal bond approved and filed.

Recognizances on Appeal of Samuel Gompers, John Mitchell and Frank Morrison filed.

1333 *Appellants' Directions to Clerk for Preparation of Record.*

Filed January 14, 1909.

In the Supreme Court of the District of Columbia.

Equity. No. 27305.

BUCK'S STOVE AND RANGE COMPANY

vs.

AMERICAN FEDERATION OF LABOR.

As attorneys for Samuel Gompers, John Mitchell and Frank Morrison in contempt, we hereby designate to be included in the transcript of the record on their appeal and as sufficient for the determination of the questions involved therein, petition for rule to show cause filed July 20, 1908; rule thereon with return; answers of the several respondents; depositions from Springfield and Staunton, Illinois, filed October 19, 1908; depositions from Cincinnati, filed October 26, 1908; depositions from Indianapolis, filed October 28, 1908; depositions from Cleveland, filed October 29, 1908; together with depositions filed by Harper, Examiner, November 10, 1908; and

opinion of Justice Wright and decree with recognizance of the several respondents and appeal bond; together with a copy of this designation. The printed exhibits filed separately from the several depositions and not embodied in them not to be included in the record.

We have heretofore filed in your office, for convenience, carbon copies of all the depositions above referred to and also the opinion and decree. We file at this time carbon copies of the petition and the answers of the several respondents, except Gompers, all for convenience in making up the record.

RALSTON & SIDDONS,
Attorneys for Respondents.

Mr. John R. Young, Clerk of Court.

1335

Stipulation.

Filed January 15, 1909.

In the Supreme Court of the District of Columbia.

No. 27305. Equity.

BUCK'S STOVE & RANGE CO.

vs.

AMERICAN FEDERATION OF LABOR ET AL.

For the purpose of avoiding unnecessary cost in the matter of the appeal by the defendants Samuel H. Gompers, John Mitchell and Frank Morrison from the judgment against them under the contempt proceedings in the above entitled cause, it is stipulated that, in addition to the parts of the record by them designated to be included in the transcript for appeal, the *fac simile* reproductions from the Labor press referred to in the opinion of the Court accompanying the said judgment are reproductions from exhibits duly proven and filed in the cause; and, further, that, with the approval of the Court of Appeals, the record in the above cause already in that Court, being Cause No. 1916 therein, may be read from by either party to the appeal in said contempt proceedings, in so far as the same may be relevant and material, with like effect as if the said record of the original cause were embraced in the transcript, in the appeal from the said contempt proceedings. This stipulation to form part of the record on appeal.

RALSTON & SIDDONS,
*Attorneys for Defendants Gompers,
Mitchell, and Morrison.*
J. J. DARLINGTON,
Of Counsel for Buck's Stove & Range Co.

1336

Motion for Costs.

Filed December 28, 1908.

In the Supreme Court of the District of Columbia.

No. 27305. Equity.

BUCK'S STOVE & RANGE COMPANY

vs.

AMERICAN FEDERATION OF LABOR ET AL.

Now comes complainant and moves the Court to amend, or supplement, its decree passed herein on the 23rd day of December, 1908, by awarding to it its costs against the defendants, Samuel Gompers, John Mitchell and Frank Morrison under the proceedings in contempt against them.

J. J. DARLINGTON,
Solicitor for Complainant.

Please take notice that on Thursday next, the 31st day of December, 1908, at 10:00 o'clock a. m., the above motion will be presented to the Court for its action.

J. J. DARLINGTON,
Solicitor for Complainant.

Service acknowledged this — day of December, 1908.

DISTRICT OF COLUMBIA, ss:

I, Charles H. White, on oath say that I served the foregoing and annexed motion on the respondents this day by leaving a copy of the same at the offices of Messrs. Ralston and Siddons their solicitors.

CHARLES H. WHITE.

Subscribed and sworn to before me, this 28th day of December, A. D. 1908.

J. R. YOUNG, *Clerk*,
By F. E. CUNNINGHAM,
Ass't Clerk.

Decree.

Filed January 26, 1909.

In the Supreme Court of the District of Columbia.

No. 27305. Equity.

BUCK'S STOVE AND RANGE COMPANY

vs.

AMERICAN FEDERATION OF LABOR ET AL.

Upon consideration of the motion of the complainants, filed in the above cause on the 28th day of December, 1908, for award of its costs in the contempt proceedings in said cause against the defendants Samuel Gompers, John Mitchell and Frank Morrison, and after argument by the solicitors of the respective parties, it is by the court this 26th day of January, 1909, ordered, adjudged and decreed that the said motion be, and the same hereby is, granted, and that the complainant the Buck's Stove and Range Company do recover against the defendants Samuel Gompers, John Mitchell and Frank Morrison its costs in the said contempt proceedings, to be taxed by the Clerk, and that it have execution therefor as at law.

WRIGHT, *Justice.*

Stipulation.

Filed February 8, 1909.

In the Supreme Court of the District of Columbia.

Equity. No. 27305.

BUCK'S STOVE AND RANGE COMPANY

vs.

AMERICAN FEDERATION OF LABOR ET AL.

It is stipulated and agreed by and between counsel for complainants and defendants in the matter of the appeal from the order of court adjudging Samuel Gompers, John Mitchell and Frank Morrison in contempt that in the making up of the record the Clerk of the Supreme Court of the District of Columbia shall be and is hereby authorized to sign the names of Harvey Stroud, Frank Schaeffer, Edward Wieck and John A. Mueller to the original or carbon copies of their depositions now in his possession and that the copies so signed may be used as originals and so inserted in the record and he is further authorized to use the carbon copies of the depositions of John H. Walker and Nellie Leiper in his possession and as if

originals, and to certify all of the foregoing as part of the record on appeal.

J. J. DARLINGTON,
Of Counsel for Complainant.
RALSTON & SIDMONS,
Attorneys for Defendants.

1339 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA,
District of Columbia, ss:

I, John R. Young, Clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 1338, both inclusive, (comprising Volumes I, II and III), to be a true and correct transcript of the record according to directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 27305 in Equity, wherein Buck's Stove and Range Company is Complainant, and American Federation of Labor, is Defendant, as the same remains upon the files and of record in said Court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court, at the City of Washington, in said District, this 9th day of February, A. D. 1909.

[Seal Supreme Court of the District of Columbia.]

JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia supreme court. No. 1990. Samuel Gompers *et al.*, appellants, *vs.* The Buck's Stove & Range Company. Court of Appeals, District of Columbia. Filed Feb. 9, 1909. Henry W. Hodges, Clerk.

MONDAY, *April 19th, A. D. 1909.*

No. 1990.

SAMUEL GOMPERS, JOHN MITCHELL, and FRANK MORRISON,
Appellants,

vs.

THE BUCK'S STOVE & RANGE COMPANY.

The argument in the above entitled cause was commenced by Mr. J. B. Parker, attorney for the appellants, and was continued by Mr. J. J. Darlington, attorney for the appellee.

TUESDAY, *April 20th, A. D. 1909.*

No. 1990.

SAMUEL GOMPERS, JOHN MITCHELL, and FRANK MORRISON,
Appellants,

vs.

THE BUCK'S STOVE & RANGE COMPANY.

The argument in the above entitled cause was continued by Messrs. J. J. Darlington and J. M. Beck, attorneys for the appellee, and was concluded by Mr. J. H. Ralston, attorney for the appellants.

SAMUEL GOMPERS, JOHN MITCHELL, and FRANK MORRISON,
Appellants,

vs.

THE BUCK'S STOVE & RANGE COMPANY.

Opinions.

Mr. Justice VAN ORSDEL delivered the opinion of the Court:

This cause was appealed from a decree of the Supreme Court of the District of Columbia adjudging appellants guilty of contempt of court. For convenience, appellants will be referred to hereafter as defendants and appellee as complainant.

On the 19th day of August, 1907, a bill of complaint was filed by the complainant corporation in the Supreme Court of the District of Columbia praying for an order of injunction restraining certain parties, among whom were these defendants, from conducting a boycott against the business of complainant. On the 18th day of December, 1907, the temporary restraining order set forth in the petition herein was entered.

The bond required by the court to be filed to indemnify the defendants against any damage they might sustain by reason of the order, was filed by complainant on the 23d day of December, 1907. The temporary restraining order, therefore, did not become effective until that date. Thereafter, evidence was taken by the respective

parties, and, on hearing, the court, on March 23, 1908, entered a decree making the temporary injunction perpetual as to the original defendants.

From the final decree making the temporary injunction perpetual, an appeal was taken to this court. No supersedeas bond was given nor any action taken by the defendants to stay the judgment. On hearing, this court (33 App. D. C., 84), modified the decree to read as follows:

"This cause came on to be heard on the transcript of the record from the Supreme Court of the District of Columbia, and was argued by counsel.

"On consideration whereof, it is now here ordered, adjudged, and decreed by this court that the decree of the said Supreme Court in this cause be, and the same is hereby modified and affirmed as follows: It is adjudged, ordered, and decreed that the defendants, Samuel Gompers, Frank Morrison, John B. Lennon, James Duneau, John Mitchell, James O'Connell, Max Morris, Denis A. Hayes, Daniel J. Keefe, William D. Huber, Joseph F. Valentine, Rodney L. Thixton, Clinton O. Buckingham, Herman C. Poppe, Arthur J. Williams, Samuel R. Cooper, and Edward L. Hickman, individually and as representatives of the American Federation of Labor, their and each of their agents, servants, and confederates, be, and they hereby are, perpetually restrained and enjoined from conspiring or combining to boycott the business or product of the complainant, and from threatening or declaring any boycott against said business or product, and from abetting, aiding, or assisting in any such boycott, and from directly or indirectly threatening, coercing, or intimidating any person or persons whomsoever from buying, selling, or otherwise dealing in complainant's product, and from printing the complainant, its business, or product in the 'We Don't Patronize' or 'Unfair' list of defendants in furtherance of any boycott against complainant's business or product, and from referring, either in print or otherwise, to complainant, its business or products, as in said 'We Don't Patronize' or 'Unfair' list in furtherance of any such boycott."

This cause arose out of the alleged disobedience by these defendants of the decree of the court below. On July 20, 1908, complainant filed a petition in the original cause in equity charging the defendants, Samuel Gompers, Frank Morrison, and John Mitchell with wilful and premeditated violations of both the temporary and perpetual injunctions, and with a total disregard of the same, and, in so doing, they are charged with acting in gross and wilful contempt of the authority of the court. The petition in full appears, post, p. 715, this issue.

On the same day the petition in the present case was filed, a citation was issued requiring the defendants, on or before the 8th day of September, 1908, to appear and show cause why they should not be adjudged in contempt of the order and decree of the court. Within the time allowed, the defendants appeared and answered separately, substantially admitting the facts alleged in the petition in so far as they directly applied to them individually or collectively; but

each specifically denying any intention to disregard or treat with contempt the decrees of the court. As we shall later observe, the answers, in the state of this record, become of little importance in the disposition of this appeal.

A voluminous amount of evidence was taken by the respective parties. On hearing, the court entered the following decree:

"Now come the parties, by their attorneys, and the respondents, Samuel Gompers, Frank Morrison, and John Mitchell, in their proper persons, and this cause having been submitted to the court on, to wit, the 17th day of November, A. D. 1908, upon the petition of the complainant for a rule upon the respondents, Samuel Gompers, Frank Morrison, and John Mitchell, to show cause why they should not be adjudged in contempt, the answers of the said respondents and the testimony taken thereunder, and after full argument by the solicitors of the parties, respectively, and the same having been duly considered by the court, it now finds the fact to be that, on or about the 24th day of January, 1908, while the injunction *pendente lite* of December 18, 1907, was, and was by them known to be, in force, the said respondents published and caused to be widely disseminated a paper signed by them, and which they caused to be accompanied by another paper, therein referred to as an editorial from the February, 1908, Federationist, which papers, in violation of the express mandates of the said injunction, made reference to the fact that a boycott had been declared against the complainant, its business, and its product, and that organized labor had asked its friends to use their influence and purchasing power in aid thereof, alleged that the said injunction was an invasion of the liberty of the press and of free speech, and declared that it could not 'compel union men or their friends to buy the Buck's stoves and ranges,' and that 'for this reason the injunction will fail to bolster up the business of this firm, which it claims is so swiftly declining;' that on or about the 25th day of January, 1908, the respondent, John Mitchell, in like violation of the said boycott, combined with sundry persons, acting in aid of and in conjunction with himself and others of the defendants, in calling attention to the said boycott, and in giving notice that any one of the 300,000 members of the United Mine Workers of America who should purchase a stove of the complainant's manufacture should be fined therefor and expelled from the said organization if the fine were not paid; that in April, 1908, when the permanent injunction of March 23d, 1908, was, and was by them known to be in full force, the respondents, Samuel Gompers and Frank Morrison in violation thereof, published in the said American Federationist and widely disseminated a letter signed by them and addressed to the numerous state branches and central bodies of the defendant, the American Federation of Labor, requesting them to bear in mind that an injunction issued by a court in no way compels labor or labor's friends to buy the product of the Van Cleave Buck's Stove and Range Company, of St. Louis. Fellow-workers, be true and helpful to yourselves and to each other. Remember that united effort in the cause of right and justice must triumph;' and the court further finds as a fact that the respondents, Samuel Gompers, Frank

Morrison, and John Mitchell, are guilty of the several acts charged in paragraphs 17 and 26 of the complainant's petition; that the said respondents Gompers and Morrison are guilty of the several acts charged in the 16th and 20th paragraphs of the said petition; that the respondent Morrison is guilty of the acts charged in the 25th paragraph of the said petition; and that the respondent Gompers is guilty of the several acts charged in the 19th, 21st, 22d, and 23d paragraphs thereof.

"And, the court being fully advised in the premises, it is by it, this 23d day of December, A. D. 1908, considered that the said respondents, Samuel Gompers, Frank Morrison, and John Mitchell, are guilty of contempt in their said disobedience of the plain mandates of the said injunctions; and it is therefore ordered and adjudged that the said respondent Frank Morrison be confined and imprisoned in the United States jail in the District of Columbia for and during a period of six months, that the said respondent John Mitchell be confined and imprisoned in the said jail for and during a period of nine months, and that the respondent Samuel Gompers be confined and imprisoned in the said jail for and during a period of twelve months, said imprisonment as to each of said respondents to take effect from and including the date of the arrival of said respective respondents at said jail."

From this judgment the case comes here on appeal.

At the threshold of this inquiry, we are met with a motion filed by complainant to dismiss the *the* appeal. This motion is based upon three grounds: first, that the judgment of the court below is reviewable by writ of error only, and not by appeal; second, that the record contains no bill of exceptions, agreed statement of facts, or other appropriate basis for review of the judgment in this court, and, third, that the appeal presents no case susceptible of review by this court upon the record therein.

No bill of exceptions has been preserved or appears in the record. The case was brought here by the defendants upon the theory that the judgment decreeing them guilty of contempt is in the nature of an interlocutory order made in the original injunction proceedings, and that the case should come here for review on appeal as part of the equitable proceeding. The motion, therefore, primarily raises the question whether this case can be reviewed upon appeal or whether it should have come here on error. Section 226 of the Code providing for appeals to this court is as follows: "Any party aggrieved by any final order, judgment, or decree of the Supreme Court of the District of Columbia, or of any justice thereof, including any final order or judgment in any case heard on appeal from a justice of the peace, may appeal therefrom to the said Court of Appeals; and upon such appeal the Court of Appeals shall review such order, judgment, or decree, and affirm, reverse, or modify the same as shall be just." This provision of the Code embraces appeals in cases both at law and in equity, but it in no way affects the character of record necessary to obtain a review in this court. The record in a law cause must still contain a bill of exceptions, or its equivalent, to bring before the court the evidence and rulings there-

of the court below. *Ormsby v. Webb*, 134 U. S., 47; *Met. R. R. v. District of Columbia*, 195 U. S., 322. The record, therefore, essential to properly present a law cause for review in this court, must be the same as if the case were brought upon writ of error instead of appeal. That being true, the general rule as to the preparation of the record applicable to the appeal of contempt cases in federal courts will apply to this court.

We are of the opinion that, under our practice, where the contempt is civil and the order adjudging contempt is made in the course of the original proceedings, the order may be treated as interlocutory, and may be considered as a part of such proceedings, and so treated, either upon the appeal of the original cause or upon special appeal. Hence, if the contention of counsel for defendants is correct, the order being one made in the original injunction proceeding, if a civil contempt, would be appealable and reviewable in the same manner as the original cause.

The mere fact, however, that the alleged contempt was brought to the attention of the court by petition of the complainant, and not on complaint of the prosecuting officer of the Government, is immaterial in determining whether the process issued thereon is civil or criminal. We are not concerned with the manner in which the court's attention was called to the offense, but with the proceedings after the court took cognizance thereof.

Blackstone (book 4, ch. 20), considering the general subject of contempts, treats contempt of court under the head of "summary convictions." The only distinction he makes between contempts and other misdemeanors is in the manner in which they are prosecuted. Enumerating the different species of contempt, he refers to "those committed by parties to any suit or proceeding before the court, as disobedience of any rule or order made in the progress of a cause, non-payment of costs awarded by the court upon a motion, or non-observance of awards duly made by arbitrators or umpires, or having entered into a rule for submitting to such determination. Indeed, the attachment for most of this species of contempts, and especially for non-payment of costs and non-performance of awards, is to be looked upon rather as a civil execution for the benefit of the injured party, though carried on in the shape of a criminal process for a contempt of the authority of the court. And therefore it hath been held that such contempts, and the process thereon, being properly the civil remedy of individuals for a private injury, are not released or affected by the general act of pardon."

It will be observed that the learned commentator is careful to limit civil contempts to the disobedience of orders made in the course of civil execution for the benefit of the injured party. The commitment in such instances is upon civil process, and is coercive to compel obedience to the order. When the order is complied with, the restraint is at an end. We are not here confronted with such a case. This is an alleged disobedience of a decree of injunction restraining the defendants from doing certain acts injurious to the complainant. It comes within the general classification of criminal contempts. The penalty is imposed by way of punishment, and is

inflicted, not for the benefit of the complainant, but on behalf of the public to prevent a repetition of the offense in similar cases.

In the leading case of *Bassette v. W. B. Conkey Co.*, 194 U. S. 324, Mr. Justice Brewer, in distinguishing between civil and criminal contempts, quoted with approval from the opinion of Judge Sanborn of the Court of Appeals of the Eighth Circuit in *In re Nevitt*, 54 C. C. A., 622, 632; 117 Fed., 448, 458, as follows: "Proceedings for contempts are of two classes, those prosecuted to preserve the power and vindicate the dignity of the courts and to punish for disobedience of their orders, and those instituted to preserve and enforce the rights of private parties to suits, and to compel obedience to orders and decrees made to enforce the rights and administer the remedies to which the court has found them to be entitled. The former are criminal and punitive in their nature, and the Government, the courts and the people are interested in their prosecution. The latter are civil, remedial and coercive in their nature, and the parties chiefly in interest in their conduct and prosecution are the individuals whose private rights and remedies they were instituted to protect or enforce. *Thompson v. Railroad Co.*, 48 N. J. Eq., 105, 108; *Hendryx v. Fitzpatrick* (C. C.), 19 Fed. Rep., 810; *Ex parte Culliford*, 8 Barn. & C., 220; *Rex v. Edwards*, 9 Barn. & C., 652; *People v. Court of Oyer and Terminer*, 101 N. Y., 245, 247; *Phillips v. Welch*, 11 Nev., 187, 190; *State v. Knight*, 3 S. Dak., 509, 513; *People v. McKane*, 78 Hun, 154, 160; 28 N. Y. Supp., 981; 4 Bl. Comm., 285; 7 Am. & Eng. Ency. Law, 68. A criminal contempt involves no element of personal injury. It is directed against the power and dignity of the court, and private parties have little if any interest in the proceedings for its punishment. But if the contempt consists in the refusal of the party or the person to do an act which the court has ordered him to do for the benefit or the advantage of a party to a suit or action pending before it, and he is committed until he complies with the order, the commitment is in the nature of an execution to enforce the judgment of the court, and the party in whose favor that judgment was rendered is the real party in interest in the proceedings."

The distinction between civil and criminal contempts seems to be that where the order of the court is made in a civil proceeding solely for the benefit of one of the parties litigant and is disobeyed by the other party to the suit, an order committing such party for contempt until he yields obedience to the order is a civil proceeding. Such are orders requiring the payment of money or the performing of some act for the benefit of the opposing litigant, and are not matters in which the public is interested. Criminal contempts consist in such disobedience of the mandates or decrees of a court as constitute a defiance of the power and authority of the court. A disobedience or disregard of an order of injunction is usually treated as a criminal contempt.

In the case of *Phillips v. Welch*, *supra*, the contempt consisted in the refusal of a party to obey a decree of injunction restraining him and certain others from delivering water from a stream to the damage of each other. The court in determining whether this constituted

a civil or criminal contempt, said: "If the contempt consists in the refusal of a party to do something which he is ordered to do for the benefit or advantage of the opposite party, the process is civil and he stands committed till he complies with the order. The order in such case is not punitive, but coercive. If, on the other hand, the contempt consists in the doing of a forbidden act, injurious to the opposite party, the process is criminal and conviction is followed by a penalty of fine or imprisonment, or both, which is purely punitive. In the former case the private party alone is interested in the enforcement of the order, and the moment he is satisfied, the imprisonment terminates; in the latter case the State alone is interested in the enforcement of the penalty. It is true the private party receives an incidental advantage from the infliction of the penalty, but it is the same sort of advantage precisely which accrues to the prosecuting witness in a case of assault and battery the advantage being that the punishment operates in terrorem, and by that means has a tendency to prevent a repetition of the offense. The principle of discrimination between the civil and criminal process for contempt here indicated, though not expressly recognized in any of the cases that have fallen under our observation, is entirely consistent with all the decisions, and is the only means of rendering them consistent with each other. It may, therefore, be considered established by them." In this case the contempt was held to be a criminal one. The court rendered a similar decision in *State v. Knight*, 3 S. Dak., 509, where the offense consisted in disobeying an order of injunction restraining the foreclosure of a mortgage. To the same effect are the following cases: *Baltimore & Ohio R. R. Co. v. Wheeling*, 13 *Grat. (Va.)*, 57; *Thompson v. Pennsylvania R. R. Co.*, 48 *N. J. Eq.*, 105; *New Orleans v. Steamship Co.*, 20 *Wall.*, 387; *Warden v. Searles*, 121 *U. S.*, 14.

Both the Federal and State courts have generally regarded the disobedience of an injunctive order, where the order does not involve the performance of some act for the exclusive benefit of a party litigant, as a criminal contempt, and have universally refused, in the absence of a bill of exceptions, or its equivalent, appearing in the record, to consider the facts on appeal. A recent decision, strongly in point, is found in the case of *Continental Gin Co. v. Murrey & Co.*, 162 *Fed.*, 873, in which the Murrey Company brought suit against the Continental Gin Company in the Circuit Court for the District of Delaware, alleging infringement of patents. The Circuit Court entered an interlocutory decree against the Gin Company for an injunction and account. The injunction restrained defendants generally from making, using, or selling the articles with respect to which the infringement was alleged. Subsequently, on motion of the Murrey Company in the same proceeding, the plaintiffs in error were adjudged guilty of contempt for disobedience of the injunction and ordered to pay a fine of \$250 to the United States, and \$500 to the complainant as counsel fee and the costs of the proceeding. The matter was brought to the Circuit Court of Appeals upon writ of error, but no bill of exceptions appeared in the record. Mr. Justice Moody delivering the opinion of the court held that, while judg-

ment in contempt may be reviewed in the Circuit Court of Appeals by writ of error, in the absence of the evidence adduced at the hearing of the contempt proceeding in the court below appearing in the record by bill of exceptions, "there is no record in the proper sense of the word in which the assignment of error can be applied, and in the further absence of any finding of facts or special verdict or request for ruling upon the facts or upon questions of law, there is nothing left in the record to consider except the motion for attachment, the order to show cause, and the judgment."

The order finding the defendants guilty of contempt was not an interlocutory order in the injunction proceeding. It was in a separate action, one personal to the defendants, with the defendants on one side and the court vindicating its authority on the other. In *Alexander v. United States*, 201 U. S. 217, a witness refused to answer certain questions and produce certain books, on the ground of immateriality, claiming immunity also under the Fifth Amendment to the Federal Constitution. The court overruled the objections, and ordered him to answer the questions and produce the books. The order left the witness no alternative but to obey or answer for contempt. The court held that the order was interlocutory in the original suit from which an appeal would not lie, but that if the witness had been punished for contempt, it would constitute a separate, independent action from which an appeal would lie. In referring to this distinction, the court said: "This power to punish being exercised the matter becomes personal to the witness and a judgment as to him. Prior to that the proceedings are interlocutory in the original suit. This is clearly pointed out by Circuit Judge Van Deventer, disallowing an appeal from an order like those under review, in the case of *Nelson v. United States* (No. 490), in error to the Circuit Court of the United States for the District of Minnesota. The learned judge said: 'I am of opinion that the mere direction of the court to the witnesses to answer the questions put to them and to produce the written evidence in their possession is not a final decision; that it more appropriately is an interlocutory ruling or order in the principal suit, and that if the witnesses refuse to comply with it, and the court then exercises its authority, either to punish them or to coerce them into compliance, that will give rise to another case or cases to which the witnesses will be parties on the one hand and the Government as a sovereign vindicating the dignity and authority of one of its court's will be a party on the other hand.'"

The offense here charged is a criminal one, from which an appeal will lie; but the failure to include in the record a bill of exceptions or its equivalent closes the record so far as this inquiry is concerned, except as to the petition, answers, citation, and judgment. In the absence of a bill of exceptions, we must presume that the evidence was sufficient to establish the truth of each charge contained in the petition, of which the trial justice found the defendants guilty. Our inquiry, therefore, is limited solely to questions of law.

This brings us to a consideration of the charges contained in the petition. It appears, among other things, that between the date when

the court announced its decision granting the temporary injunction and the date of filing the bond required by the complainant, the defendants Gompers and Morrison advanced the issue and circulation of the January, 1908, edition of the American Federationist and printed therein the name of complainant in the "Unfair" or "We Don't Patronize" list. For this, the trial justice found the defendants guilty of contempt. It is contended by counsel for defendants that the temporary restraining order did not become operative until the filing of the bond, and that, until the required undertaking had been filed, there could be no disobedience of the order. We need not express an opinion on this point. The defendants were found guilty of circulating through the American Federationist, after the injunction became effective, the "Unfair" or "We don't Patronize" list with complainant's name thereon, as published in the said January, 1908, and previous editions of that paper. It is charged, and found to be true by the trial court, that this circulation continued up to the date of the filing of the petition in this cause. It is also charged in the petition, and found to be true, that the defendants Gompers and Morrison published and circulated through the American Federationist articles calling the attention of the members of the American Federation of Labor and their friends throughout the country to the injunction issued by the court below in such a manner as to cause their followers to disregard and disobey the same, the intended effect of which was to injure and interfere with complainant's business and the sale of its product, and to restrain the membership of the American Federation of Labor and the public generally from patronizing the complainant and to continue and maintain the boycott against the business of complainant. The following expressions appear in the articles so published:

"With all due respect to the court, it is impossible for us to see how we can comply with all the terms of this injunction. * * * This injunction cannot compel union men or their friends to buy the Buck's stoves and ranges. For this reason, the injunction will fail to bolster up the business of this firm, which it claims is so swiftly declining."

"Individuals, as members of organized labor, will still exercise the right to buy or not to buy the Buck's stoves and ranges. It is an exemplification of the saying that 'You can lead a horse to water, but you can't make him drink,' and more than likely these men of organized labor and their friends will continue to exercise their rights to purchase or not purchase the Buck's stoves and ranges."

"The publication of The Buck's Stove and Range Co. on the 'We Don't Patronize' list of the American Federation of Labor is only an incident in the history of the case. These stoves might have been left as severely alone by purchasers if they had never been mentioned on that list. It is not the matter of removing that firm from the list against which we primarily protest, it is this injunction invading the freedom of the press."

"The temporary injunction issued by Justice Gould, of the Court of Equity, of the District of Columbia, in the (Van Cleave) Buck's

Stove and Range Company of St. Louis against the American Federation of Labor, its officers and all others, has been made permanent. The case will now be carried to the Court of Appeals of the District of Columbia.

"It should be borne in mind that there is no law, aye, not even a court decision compelling union men or their friends of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat."

"Bear in mind that an injunction issued by a court in no way compels labor or labor's friends to buy the product of the Van Cleave Buck's Stove and Range Company of St. Louis.

"Fellow-workers, be true and helpful to yourselves and to each other. Remember that united effort in cause of right and justice must triumph."

It will be observed that in each of the above publications, the members of the American Federation of Labor *and their friends* are combined together. This is most significant, and, in the conditions then existing, was manifestly intended to encourage and counsel a continuation of the forbidden acts.

It is charged in the petition that on numerous occasions, while the injunction was in full force and effect, the defendant Gompers gave utterance to similar statements in public speeches. For example, in a speech delivered before a public gathering of working people on May 1, 1908, in the city of Chicago, Ill., Gompers said:

"I might say just parenthetically about the hatters' case that you are not now permitted to boycott the Loewe hats, but I want to call your attention to the fact that there is no law compelling you to wear a Loewe hat, nor has any judge issued a mandamus compelling you to buy a Loewe hat. That applies equally to Mr. Van Cleave's stoves and ranges. And, by the way, I don't know why you should buy any of that sort of stuff. I won't; but that is a matter to which we can refer more particularly in our organizations."

In a public address to the working people of New York city on the 19th of April, 1908, Gompers made the following statement:

"Of course, in the case of the Buck's Stove and Range Company, if I told you that the Buck's Stove and Range Company was still unfair, when I got back to Washington tomorrow, or some place where they say people play checkers with their noses—well, as I say, I am not prepared to tell you that these things are unfair. But there is no law, no court decision that compels you to buy them, nor does any law compel you to buy anything without the union label."

It was found by the court below to be a fact, not only that these statements were made as charged, but that they were made with the intent of inciting the membership of the American Federation of Labor and their friends to continue the boycott against the business of complainant in defiance of the decree of the court. The defendants having been found guilty of the offenses above charged, in the absence of the evidence from the record, the sole question left for us to consider is whether, under the circumstances, they constitute contempt of court.

It must be remembered that the injunctions affected directly and indirectly several millions of the people of the United States. The decree did not run alone against these defendants, but against about two million members of the American Federation of Labor throughout the country. Hence, it is proper to consider the effect of the acts of the defendants upon this membership and the persons who had been formerly prevented by the boycott from patronizing the complainant. While these acts, if they had affected only the conduct of the defendants, or if the injunction had been against them alone, might not have amounted to more than a comment or criticism of the action of the court, yet, if the remarks, when published and uttered, were such as to tend to inflame their followers into a feeling of resentment to the decree of the court and lead to disobedience of its commands, the defendants would be chargeable with contempt for producing this result. Contempt may be committed by innuendo and insinuation. It may consist in maliciously saying or doing anything that will have a tendency to induce others to disregard the authority of the court. While the publications and utterances before us may not, when literally interpreted, constitute technical contempt, yet, if the manifest intent of the defendants was not only to disobey the order of the court themselves, but also to inspire their followers to do likewise, it may be regarded as a punishable contempt. We think it is this sort of an offense of which the defendants are here guilty.

The boycott waged by the American Federation of Labor against the business of complainant had become so acute and extensive that the terms "boycott," "unfair," and "we don't patronize," when used in connection with complainant's name, had acquired such a significance to the organization and its friends that the mere printing or uttering of the name in that connection was a signal to the membership and their friends not to deal with the complainant or persons having business relations with it. As Mr. Justice Robb said in the opinion of this court in the former case (33 App. D. C., 84), referring to the "Unfair" or "We Don't Patronize" list: "The court has now found, and in this finding we concur, that this list in this case constitutes a talismanic symbol indicating to the membership of the Federation that a boycott is on and should be observed." The mere mention of complainant's name by these leaders in the columns of the Federationist or on the public platform in connection with the expressions "boycott," "unfair," or "we don't patronize" might tend to influence many to disregard the decree of the court, and thus come as effective notice to their followers as it had formerly been when published in the "Unfair" or "We Don't Patronize" list. We are convinced that the acts charged were committed by the defendants for the express purpose of nullifying the order of the court, in the belief that they were technically avoiding the charge of contempt. The acts of these defendants, taken as a whole, can produce in the mind of any reasonable person but one impression—a concerted, well-planned effort to encourage the membership of the American Federation of Labor and their friends to disregard and disobey the orders of the court, and to create among their followers

and their sympathizers a lack of respect for the authority and dignity of the court.

In paragraph eighteen of the petition, the defendant, John Mitchell, is charged with presiding over and taking part in the deliberations of a convention of the United Iron Workers of America on the 25th of January, 1908, at which a resolution was adopted placing the product of the complainant on the "Unfair" list, and fining any member of the organization five dollars for purchasing a stove manufactured by complainant; providing that for non-payment of the fine, expulsion from the order should be imposed as a penalty. The defendant in his answer admits that he was present and presided over the convention, but disclaims any knowledge of either the consideration or passage of the resolution, until his attention was called to it by the filing of the petition herein. Upon this important issue of fact, owing to the absence of the evidence from the record, we must accept the conclusion of the trial justice as to the truth of these charges and the guilt of the defendant.

The adoption of this resolution could accomplish but one end, the perpetuation and continuation of the boycott. A labor organization can conduct an unlawful boycott as effectually by compelling its own members to refrain from dealing with the party boycotted, as by coercing others into similar action. The wilful participation of the defendant being established, the act charged constituted a separate and complete offense, committed in open and brazen disobedience of the express commands of the court.

In addition to finding the defendants guilty of the foregoing offenses as charged, they were also found guilty of numerous other offenses charged in the petition. Since, however, the finding of guilt on the counts or charges above considered, is sufficient to support the judgment of the court, and the penalty imposed is not greater than could have been inflicted had they constituted the only offenses charged, it will not be necessary to consider the other offenses charged in the petition of which the defendants were found guilty. In a criminal proceeding where the accused is found guilty as charged under an indictment containing numerous counts, the judgment will not be reversed, though some of the counts are bad, if the good ones are sufficient to support the judgment.

In *Claasen v. United States*, 142 U. S., 140, where the defendant had been convicted of embezzlement on five different counts, the court considered the first count, which it found to be sufficient to support the verdict, and refused to consider the other counts, stating: "This count and the verdict of guilty returned upon it being sufficient to support the judgment and sentence, the question of the sufficiency of the other counts need not be considered. In criminal cases, the general rule, as stated by Lord Mansfield before the Declaration of Independence, is, 'that if there is any one count to support the verdict, it shall stand good, notwithstanding all the rest are bad.' *Peake v. Oldham*, Cowper, 275, 276; *Rex v. Benfield*, 2 Bur., 980, 985. See, also, *Grant v. Astle*, 2 Doug., 722, 730. And it is settled law in this court, and in this country generally, that in any criminal case a general verdict and judgment on an indictment or informa-

tion containing several counts can not be reversed on error, if any one of the counts is good and warrants the judgment, because, in the absence of anything in the record to show the contrary, the presumption of law is that the court awarded sentence on the good count only. *Locke v. United States*, 7 Cranch, 339, 344; *Clifton v. United States*, 4 How., 242, 250; *Snyder v. United States*, 112 U. S., 216; *Bond v. Dustin*, 112 U. S., 604, 609; 1 Bishop *Crim. Pro.*, sec. 1015; *Wharton Crim. Pl. & Prac.*, sec., 771. . . . In the case now before us . . . the jury did not return a general verdict against the defendant on all the counts, but found him guilty of the offenses charged in each of the five counts now in question. This being the case, and the sentence being to imprisonment for not less than five years nor more than ten, which was the only sentence authorized for a single offense under the statute on which the defendant was indicted, there is no reason why that sentence should not be applied to anyone of the counts which was good." Applying to the case at bar this wholesome rule in the enforcement of criminal law, the order of the court below finding the defendants guilty of the herein considered charges, is sufficient to support the penalty imposed by the court. Hence, further consideration of this branch of the case is unnecessary.

That the Supreme Court of the District of Columbia has jurisdiction of contempt proceedings growing out of the disobedience of its lawful orders will be conceded. But it is contended that the court below exceeded its jurisdiction in entering the decree for the disobedience of which the defendants are held in contempt. On appeal this court modified that decree. It is insisted that the defendants are held for disobedience of those parts of the order of injunction which were, on appeal, eliminated. It is, therefore, urged that, inasmuch as the portions of the decree eliminated were held to be an invasion of the constitutional rights of free speech and a free press, under the First Amendment to the Constitution of the United States, the court was, therefore, without jurisdiction, and the portion of the decree thus eliminated was totally void and not binding upon these defendants.

On the other hand, it is insisted by counsel for complainant that the court below had jurisdiction to hear and determine the injunction case and enter a decree therein restraining the defendants from continuing the boycott; that, having jurisdiction to enter such a decree, the modification thereof on appeal involved merely the correction of error, and can not affect the court's jurisdiction; and that the decree became a final and binding judgment against the defendants until reversed or modified on appeal.

On this point we find it unnecessary to express an opinion. As to the two specific offenses herein considered, the petition charges a direct violation of those provisions of the original decree which were on appeal affirmed and approved by this court. We need not, therefore, consider the effect of the alleged disobedience by the defendants of such parts of the original restraining order as were subsequently eliminated by us; hence, for the purposes of this case, we may dismiss all further reference to the First Amendment to the Constitution of the United States.

With great eloquence, counsel urged at bar the high character of the defendants and the distinguished position which they have attained among their fellow-men, as matters to be considered by us in reviewing the judgment of the court below. Such an argument might with propriety be addressed to the pardoning power, but the court should not be biased by such considerations.

We have a deep sense of the far-reaching importance of this case. Three distinguished citizens, leaders in a great cause for the improvement and uplift of their fellow-men, with a larger following, probably, than was ever marshalled under single leadership in any philanthropic movement, are at the bar of justice to answer the charge of disobedience of an order of a court of the United States. We are not unmindful of the high position which the defendants have attained, but their intelligence forbids any inference or conclusion that the acts charged were committed by them in ignorance of their duty to the courts of their country; hence, that excuse can not be advanced with convincing force.

The courts are the agencies appointed by the Constitution for dispensing justice and for the orderly adjudication of controversies arising from conflicting interests. There, all must stand upon exact equality. The law knows no distinction. The rich and the poor, the intelligent and the ignorant, irrespective of race or color, are entitled to equal protection, and the scales of justice should be balanced without favor or prejudice. Government, in its most liberal form, is harsh; law is restrictive; but organized government must exist for the preservation of society. Hence, whether just or unjust, correct or incorrect, the mandates of its appointed agencies can not be subjected to individual disrespect and disobedience. The sole question before us is the guilt or innocence of the defendants. The high distinction which they have attained, the fairness or unfairness of the Buck's Stove and Range Company and the larger organization to which it belongs, the National Manufacturers' Association, are not matters to be here considered. Neither are we, as a court of review, permitted to modify or extenuate the extreme penalty imposed. These matters, as we have suggested, may be presented properly to the officer vested with authority to commute or pardon.

Individual interests dwindle into insignificance when compared with the higher principle involved in this cause. The fundamental issue is whether the constitutional agencies of government shall be obeyed or defied. The mere fact that the defendants are the officers of organized labor in America, lends importance to the cause and adds to the gravity of the situation, but it should not be permitted to influence the result. If an organization of citizens, however large, may disobey the mandates of the courts, the same reasoning would render them subject to individual defiance. The one has no greater rights in the eyes of the law than the other. Both are subject to the law, and neither are above it.

The inherent power of the court to preserve an orderly administration of its affairs, and to enforce its orders and decrees, has always been recognized. In many instances, as in the case at bar, punishment for contempt is the only means by which the court can enforce

its lawful decrees. With a proper exercise of this power, the purpose of its creation and organization is made effective; without it, it would become an impotent and a useless adjunct of government. If a citizen, though he may honestly believe that his rights have been invaded, may elect when, and to what extent, he will obey the mandates of the court and the requirements of the law as interpreted by the court, instead of pursuing the orderly course of appeal, not only the courts, but government itself, would become powerless, and society would soon be reduced to a state of anarchy.

The judgment is affirmed with costs, and it is so ordered. Affirmed.

Mr. Justice ROBB, concurring:

I concur in the opinion and conclusion of Mr. Justice Van Orsdel and desire to add but a word on one point. The contention is put forward that the opinion of the learned justice who awarded sentence below should be considered here, and that if it is it will appear therefrom that the finding of guilt and the fixing of punishment were based upon conduct of the defendants antecedent to the issuance of the restraining order. I agree with Mr. Justice Van Orsdel that we are not at liberty to consider that opinion on this appeal. Assuming, however, that it is properly before us it seems to me clear that unless it is given a forced and unreasonable construction it will not sustain the above contention.

After a recital of acts tending to show predetermination to violate the injunction the learned justice below said: "Having in mind what may be in the foregoing delineation which indicates that either of the three respondents did before the issuance of the injunction deliberately determine to wilfully violate it and did counsel others to do the same, let us now turn to their sayings and doings since the decision of Mr. Justice Gould was formally announced, and the order of injunction itself put into technical operation by the giving of the injunction bond."

This language, to my mind, conclusively shows that the conduct of the defendants antedating the injunction was considered only on the question of intent, which the court was entirely justified in doing. To hold otherwise would be to convict the court of ignorance of the law in holding the defendants guilty of violating an injunction long before it was issued.

Mr. Chief Justice SHEPARD, dissenting:

I am unable to concur in affirming the decree appealed from, for reasons which I shall state as briefly as I can.

1. As regards the conclusion that this proceeding must be regarded as criminal solely, and in consequence that the evidence upon which the conviction rests can not be considered, because not presented in a bill of exceptions reserved on the hearing, I will content myself with saying that I am not clearly convinced that it must be so regarded. The complaint was made by the complainant on whose behalf the injunction had been granted and for its own redress. No fine was imposed on behalf of the United States. The relief

sought in the original bill was not pecuniary. The punishment by imprisonment for disobedience of the writ was the only way in which the relief sought could be secured. For these reasons the proceeding might well be regarded as ancillary to the main suit, the order as one entered in execution of the decree made therein, and therefore the evidence might not only be taken but considered also in accordance with the practice in equity cases, notwithstanding the fact that the language contained in the opinion of the trial justice and the unusual severity of his sentence indicated that he regarded the proceeding as punitive and not remedial.

2. Assuming that the proceeding is criminal in its nature, there being no bill of exceptions, the presumption follows that the allegations of the complaint found to be true, were supported by satisfactory evidence. Whether the record of complaint and decree upon which the case has been considered may be supplemented by the opinion of the court, filed in the cause and made a part of the record, is a question that will be considered later.

The complaint consists of twenty-six paragraphs. It has been ordered to be printed in the report of the case, and need not be repeated or summarized. An examination of it will show that the first fifteen paragraphs charge conduct and language used by respondents in public meetings, long antedating the commencement of the original suit; some occurring in the year 1897 and long before any controversy had arisen. The sixteenth paragraph is the first that charges any act subsequent to the order for the injunction, and in disobedience thereof. The order was announced December 17, 1907, and entered on December 18th, directing the injunction to issue upon the execution of a bond in the usual form by the complainant. The order was to the effect that the injunction "shall be in full force, obligatory, and binding upon the defendants," etc., provided the complainant shall first execute the necessary bond. This order was in compliance with equity rule 42, of the Supreme Court of the District of Columbia, which makes the execution and approval of the bond a "precedent condition."

This bond was not given until December 23d. The specific charge is that after the granting of the order and before the giving of the bond, the respondents, Gompers and Morrison, hastened to deposit in the mails the already printed January number of the *American Federationist*, which contained the publication of complainant's name in the "unfair list." It is not charged that any subsequent issue of the journal contained a similar publication. Some general allegations respecting the circulation of the January number of the journal are too vague to form the foundation of a criminal charge and conviction. The gist of the charge is this "rushing" of the journal in the mails between December 17th and 23d. The decree convicting the respondents can not be supported on this charge because the order for the injunction did not become operative and effective before compliance with the precedent condition.

In the earlier equity practice an injunction was issued without bond, and was, therefore, effective from the moment of granting the order. In such case if an injunction was improvidently granted,

the defendant had no redress for the injuries he might sustain thereby. To remedy the great mischief resulting from this practice courts of equity began to require bonds when in their discretion it seemed just to do so. But modern statutes and rules of court authorized by statute have, in general, gone much farther and required bonds as conditions precedent to the taking effect of the order. Equity rule 42 is one of these. Adopted by express authority of Congress, it has all the force of a statute. Until the bond be given, the order for the injunction is clearly inoperative, without effect or obligation. This has been held by the court which promulgated the rule. *Lamon v. McKee*, 7 Mackey.

This question was reconsidered by this court in a recent case and the same conclusion reached. *Drew v. Hogan*, 26 App. D. C., 55-62. Similar statutes and rules have received the same construction throughout the country. *Clark v. Hoome's Exrs.*, 2 Hen. & Munf. (Va.), 23; *Winston v. Naysen*, 113 Mass., 411-421; *Diehlev. Frieston*, 37 Ohio St., 473; *Elliott v. Osborne*, 1 Cal., 396; *State ex rel. v. Commissioners*, 35 Kan., 150-155; *State ex rel. Wilson v. Commissioners*, 42 Kan., 739-748; *Van Fleet v. Stout*, 44 Kan., 523, 525; *Pell v. Lander*, 8 B. Mon., 554, 556; *Davis v. Dixon*, 1 How. (Miss.), 64-67; *State ex rel. Downing v. Greene*, 48 Nebr., 327-332; *Marlatt v. Perrine*, 17 N. J. Eq., 49-51; *Lowton v. Richardson*, 115 Mich., 12; *Carpenter v. Keating*, 10 Abbott Pr. N. S., 223.

3. Coming now to the remaining paragraphs, excepting that relating to the respondent John Mitchell, I find that they contain references to the effect of the injunction, in an "urgent appeal" to the friends of the labor organization to aid with funds in the prosecution of an appeal from the order, as well as declarations in speeches made in public meetings. In the view of my brethren these show an express contempt of the court granting the injunction, as well as an attempt to incite others to disobey it. There is no allegation that any act enforcing the boycott which had been enjoined, has been committed by the respondents or any of their adherents. So far as it was declared that the injunction did not compel any one to purchase the goods of the complainant, the declaration was the statement of a fact. The language used was in bad taste, under all the circumstances, but seems to have been directed to the assertion of the right of free speech and free publication for which the respondents were then and are now contending. Had these publications and speeches been followed by acts renewing or continuing the boycott, as that had been defined by this court, I grant that they might have been considered as circumstances, among others, tending to show that they were intended to incite others to disobey the injunction. That they were not so regarded by those so completely under the influence of the respondents, affords some inference that they were not so intended.

The last paragraph (26) is so general and vague that it can not form a sufficient foundation for a judgment of conviction of crime. It seems to be the statement of a general conclusion from the facts previously charged, in the nature of a general conclusion of an ordinary common law indictment.

In the opinion of the majority of the court it is substantially conceded that some of the charges in the complaint of which respondents were found guilty do not show anything done in disobedience of the writ. They say: "In addition to finding the defendants guilty of the foregoing offenses as charged, they were also found guilty of numerous other offenses charged in the petition. Since, however, the finding of guilt on the counts or charges above considered, is sufficient to support the judgment of the court, and the penalty imposed, is not greater than could have been inflicted had they constituted the only offenses charged, it will not be necessary to consider the other offenses charged in the petition of which the defendants were found guilty. In a criminal proceeding where the accused is found guilty as charged under an indictment containing numerous counts, the judgment will not be reversed, though some of the counts are bad, if the good ones are sufficient to support the judgment."

Assuming the analogy between the two cases as stated, the general doctrine is in accordance with the law as laid down by the Supreme Court of the United States in *Claasen v. U. S.*, 142 U. S., 140-146, and other cases. But the presumption of law that in such a case the sentence was on the good count solely, can only be indulged "in the absence of anything in the record to show the contrary." It is very clear that the presumption can not be indulged if we can be permitted to consider the opinion of the learned justice, who awarded the sentence. That opinion has been made a part of the transcript in accordance with Paragraph F, Rule V of this court, and is found in the printed record of which it fills 54 pages. It undertakes a recital of all the facts found under two heads, entitled as follows: "Conditions Antecedent the Injunction," and "Since the Injunction." The statement of antecedent conditions covers 31 of the 54 pages. This opinion shows conclusively that the finding of guilt, and the extreme severity of the punishment were based upon the antecedent conduct and declarations of the defendants, as well as upon those in the paragraphs or counts aforesaid. In my judgment justice demands that this opinion be considered as what it is, namely, the special findings of fact on which the decree is founded and by which it must be tested.

5. The complaint states one specific charge of violation of the injunction by the respondent Mitchell alone, namely, his presiding over and participating in a meeting of the United Mine Workers of America in Indianapolis on June 25, 1908, and approving a resolution then and there adopted reciting the controversy between the complainant and "Organized Labor," and imposing a fine of \$5 upon any member who shall thereafter purchase a stove of complainant's manufacture. This was an act violating both the original and the modified decree for injunction, that was then in force. It appears, however, from the findings of fact in the opinion aforesaid, relating to the defendant Mitchell that the court took into consideration certain other acts and declarations of said Mitchell. These comprise statements made in a book published by him in 1903, declarations in a speech made before the National Civic Federation,

December 13, 1906, to the effect that if a court should "enjoin him from doing something he had a legal, constitutional, and moral right to do, he would violate the injunction;" and his affixing his signature to the "urgent appeal" before mentioned.

When we consider the severity of the sentence of Mitchell, I think it impossible to say that it was not founded in part upon the foregoing declarations which long antedated the controversy with the complainant.

Upon the assumption that each and all of the defendants committed some acts in violation of the injunction, both as originally issued and as modified on appeal, I am of the opinion that the decree should be reversed and the case remanded for trial upon evidence confined to the real question involved.

6. There is another and stronger reason for my dissent so far as the respondents Gompers and Morrison are involved. The specific acts charged against them relate wholly to declarations and publications which violated the preliminary injunction as issued. I have heretofore expressed the opinion that so much of the injunction order was null and void, because opposed to the constitutional prohibition of any abridgment of the freedom of speech or of the press. 33 App. D. C., p. 129. Subsequent reflection has confirmed the views then expressed. I concede that the court had jurisdiction of the subject-matter of the controversy and of the parties, but I can not agree that a decree rendered in excess of the power of the court—a power limited by express provision of the Constitution—is merely erroneous and not absolutely void. That proposition is met and conclusively disposed of by Mr. Justice Miller in *ex parte Lange*, 18 Wall., 163-175. I quote therefrom as follows: "But it has been said that conceding all this the judgment under which the prisoner is now held is erroneous, but not void; and as this court can not review that judgment for error, it can discharge the prisoner only when it is void. But we do not concede the major premise in this argument. A judgment may be erroneous and not void, and it may be erroneous *because* it is void. The distinctions between void and merely voidable judgments are very nice, and they fall under the one class or the other, as they are regarded for different purposes. It is no answer to say that the court had jurisdiction of the person of the prisoner and of the offense under the statute. It by no means follows that these two facts make valid, however erroneous it may be, any judgment the court may render in such case."

In a later case the same justice said: "When, however, a court of the United States undertakes by its process of contempt to punish a man for refusing to comply with an order which that court had no authority to make, the order itself being without jurisdiction, is void, and the order punishing for contempt is equally void." *Ex parte Fisk*, 113 U. S., 713-718. To the same effect are *In re Snow*, 120 U. S., 274-285; *In re Ayres*, 123 U. S., 443-485; *Hans Nielsen*, petitioner, 131 U. S., 176-183; *Windsor v. McVeagh*, 93 U. S., 274, 283.

In *Nielsen's* case Mr. Justice Bradley stated the rule here con-

tended for as follows: "It is difficult to see why a conviction and punishment under an unconstitutional law is more violative of a person's constitutional rights, than an unconstitutional conviction and punishment under a valid law. In the first case, it is true, the court had no authority to take cognizance of the case; but in the other, it had no authority to render judgment against the defendant. This was the case of *ex parte Lange*, where the court had authority to hear and determine the case, but we held that it had no authority to give the judgment it did. It was the same in the case of *Snow*; the court had authority over the case, but we held that it had no authority to give judgment against the prisoner. He was protected by a constitutional provision, securing to him a fundamental right. It was not a case of mere error in law, but a case of denying to a person a constitutional right." See, also, *In re Frederick*, 149 U. S., 70-76; *In re Bonner*, 151 U. S., 242-256.

Convinced that the court was without authority to make the only order which the defendants Gompers and Morrison can be said to have disobeyed, I can have no other opinion than that the decree should be reversed.

The petition is as follows:

The petition of The Buck's Stove & Range Company respectfully shows to the court as follows:

I.

It is a body corporate, organized and existing under the laws of the State of Missouri.

II.

Heretofore, to wit, the 19th day of August, A. D. 1907, your petitioner filed in this cause its original bill of complaint, naming as defendants, among others, Samuel Gompers, Frank Morrison, and John Mitchell, who duly answered the bill and afterwards filed an amended answer to the same, both the said answer and the amended answer being made jointly by them and their co-defendants.

This cause came on to hearing on an application for a temporary injunction, and thereafter, to wit, the 18th day of December, A. D. 1907, after full hearing, the court, upon consideration of the said application for an injunction *pendente lite*, and of the evidence submitted with respect thereto, passed and entered in this cause its order enjoining and restraining the defendants, the said Samuel Gompers, Frank Morrison, and John Mitchell included, from interfering with the plaintiff in the conduct of its business, the said order being in terms as follows:

"This cause coming on to be heard upon the petition of the complainant for an injunction *pendente lite* as prayed in the bill, and the defendants' return to the rule to show cause issued upon the said petition, having been argued by the solicitors for the respective parties, and duly considered, it is thereupon by the court, this 18th day of December, A. D. 1907, ordered that the defend-

ants, The American Federation of Labor, Samuel Gompers, Frank Morrison, John B. Lennon, James Duncan, John Mitchell, James O'Connell, Max Morris, Denis A. Hayes, Daniel J. Keefe, William D. Huber, Joseph F. Valentine, Rodney L. Thixton, Clinton O. Buckingham, Herman C. Poppe, Arthur J. Williams, Samuel R. Cooper and Edward L. Hickman, their and each of their agents, servants, attorneys, confederates, and any and all persons acting in aid of or in conjunction with them or any of them be, and they hereby are, restrained and enjoined until the final decree in said cause from conspiring, agreeing or combining in any manner to restrain, obstruct or destroy the business of the complainant, or to prevent the complainant from carrying on the same without interference from them or any of them, and from interfering in any manner with the sale of the product of the complainant's factory or business by defendants, or by any other person, firm or corporation, and from declaring or threatening any boycott against the complainant, or its business, or the product of its factory, or against any person, firm or corporation engaged in handling or selling the said product, and from abetting, aiding or assisting in any such boycott, and from printing, issuing, publishing, or distributing through the mails, or in any other manner any copy or copies of the American Federationist, or any other printed or written newspapers, magazine, circular, letter or other document or instrument whatsoever, which shall contain or in any manner refer to the name of the complainant, its business or its product, in the 'We Don't Patronize,' or the 'Unfair' list of the defendants, or any of them, their agents, servants, attorneys, confederates, or other person or persons acting in aid of or in conjunction with them or which contains any reference to the complainant, its business or product in connection with the term 'Unfair' or with the 'We Don't Patronize' list, or with any other phrase, word or words of similar import, and from publishing or otherwise circulating, whether in writing or orally, any statement, or notice of any kind or character whatsoever, calling attention to the complainant's customers, or of dealers or tradesmen, or the public, to any boycott against the complainant, its business or its product, or that the same are, or were, or have been declared to be 'Unfair,' or that it should not be purchased or dealt in or handled by any dealer, tradesman, or other person whomsoever, or by the public, or any representation or statement of like effect or import, for the purpose of, or tending to, any injury to or interference with the complainant's business, or with the free and unrestricted sale of its product, or of coercing or inducing any dealer, person, firm or corporation, or the public, not to purchase, use, buy, trade in, deal in, or have in possession stoves, ranges, heating apparatus, or other product of the complainant, and from threatening or intimidating any person or persons whomsoever from buying, selling, or otherwise dealing in the complainant's product, either directly, or through orders, directions or suggestions to committees associations, officers, agents or others, for the performance of any such acts or threats as hereinabove specified, and from in any manner whatsoever impeding, obstructing, interfering with or restraining

the complainant's business, trade or commerce, whether in the State of Missouri, or in other States and Territories of the United States, or elsewhere wheresoever, and from soliciting, directing, aiding, assisting or abetting any person or persons, company or corporation to do or cause to be done any of the acts or things aforesaid.

"And it is further ordered by the court that this order shall be in full force, obligatory and binding upon the said defendants, and each of them, and their said officers, members, agents, servants, attorneys, confederates, and all persons acting in aid of or in conjunction with them, upon the service of a copy thereof upon them or their solicitors or solicitor of record in this cause; provided the complainant shall first execute and file in this cause, with a surety or sureties to be approved by the court or one of the justices thereof, an undertaking to make good to the defendants all damage by them suffered or sustained by reason of wrongfully and inequitably suing out this injunction, and stipulating that the damages may be ascertained in such manner as the justice of this court shall direct, and that, on dissolving the injunction, he may give judgment thereon against the principal and sureties for said damages in the decree itself dissolving the injunction.

(Signed)

ASHLEY M. GOULD, *Justice.*"

Thereafter, to wit, the 23d day of December, A. D. 1907, an undertaking, in manner and form as required in and by the said order, was entered into and given by the petitioner, and was filed in the cause and approved by the court, whereupon the said order restraining and enjoining the defendants, the said Samuel Gompers, Frank Morrison, and John Mitchell, included, became operative, binding, and effective, of which the defendants, the said Samuel Gompers, Frank Morrison, and John Mitchell, included, then and there had notice.

III.

Thereafter evidence was taken on behalf of the plaintiff and of the defendants, and the cause duly came on for hearing upon the pleadings and the evidence, and having been duly considered, a final decree was entered in this cause, to wit: the 23rd day of March, A. D. 1908, perpetually restraining and enjoining the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell included, from conspiring, agreeing or combining to restrain, obstruct or destroy the business of the complainant, and from interfering in any manner with the sale of the product of the complainant's factory, and from doing other things, performing or committing other acts more fully set out in the said decree which, in terms, is as follows:

"In the Supreme Court of the District of Columbia.

No. 27305. Equity.

THE BUCK'S STOVE & RANGE COMPANY

VS.

THE AMERICAN FEDERATION OF LABOR et al.

Final Decree.

"The above-entitled cause coming on at this time for final hearing, and having been submitted to the court by the respective parties, through their solicitors, upon the pleadings and the evidence, and having been duly considered, it is thereupon by the court this 23rd day of March, A. D. 1908, adjudged, ordered and decreed that the defendants, The American Federation of Labor, Samuel Gompers, Frank Morrison, John B. Lennon, James Duncan, John Mitchell, James O'Connell, Max Morris, Denis A. Hayes, Daniel J. Keefe, William D. Huber, Joseph F. Valentine, Rodney L. Thixton, Clinton O. Buckingham, Herman C. Poppe, Arthur J. Williams, Samuel R. Cooper and Edward L. Hickman, their and each of their agents, servants, attorneys, confederates, and any and all persons acting in aid of or in conjunction with them or any of them be, and they hereby are perpetually restrained and enjoined from conspiring, agreeing or combining in any manner to restrain, obstruct or destroy the business of the complainant, or to prevent the complainant from carrying on the same without interference from them or any of them, and from interfering in any manner with the sale of the product of the complainant's factory or business by defendants, or by any other person, firm or corporation, and from declaring or threatening any boycott against the complainant, or its business, or the product of its factory, or against any person, firm or corporation engaged in handling or selling the said product, and from abetting, aiding or assisting in any such boycott, and from printing, issuing, publishing, or distributing through the mails, or in any other manner any copies or copy of the American Federationist, or any other printed or written newspaper, magazine, circular, letter or other document or instrument whatsoever, which shall contain or in any manner refer to the name of the complainant, its business or its product in the 'We Don't Patronize' or the 'Unfair' list of the defendants, or any of them, their agents, servants, attorneys, confederates, or other person or persons acting in aid of or in conjunction with them or which contains any reference to the complainant, its business or product in connection with the term 'Unfair' or with the 'We Don't Patronize' list, or with any other phrase, word or words of similar import, and from publishing or otherwise circulating whether in writing or orally, any statement, or notice, of any kind or character whatsoever, calling attention to the complainant's customers, or of dealers or tradesmen, or the public, to any boycott against the

complainant, its business or its product, or that the same are, or were, or have been declared to be 'Unfair.' or that it should not be purchased or dealt in or handled by any dealer, tradesman, or other person whomsoever, or by the public, or any representation or statement of like effect and import, for the purpose of, or tending to, any injury to or interference with the complainant's business, or with the free and unrestricted sale of its product, or of coercing or inducing any dealer, person, firm, or corporation, or the public, not to purchase, use, buy, trade in, deal in, or have in possession stoves, ranges, heating apparatus, or other product of the complainant, and from threatening or intimidating any person or persons whomsoever from buying, selling, or otherwise dealing in the complainant's product, either directly, or through orders, directions or suggestions to committees, associations, officers, agents, or others, for the performance of any such acts or threats as hereinabove specified, and from in any manner whatsoever impeding, obstructing, interfering with or restraining the complainant's business, trade or commerce, whether in the State of Missouri, or in other States and Territories of the United States, or elsewhere wheresoever, and from soliciting, directing, aiding, assisting or abetting any person or persons, company or corporation to do or cause to be done any of the acts or things aforesaid.

"And it is further adjudged, ordered and decreed that the complainant recover against the defendants the cost of this suit, to be taxed by the clerk, and that it have execution therefor as at law.

"(Signed)

HARRY M. CLABAUGH.

Chief Justice."

IV.

And upon the entering of the said final decree, the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell included, noted an appeal therefrom to the Court of Appeals of the District of Columbia and perfected the said appeal by filing a bond for costs, which was duly approved by the court, but did not file a supersedeas bond or in any manner supersede or stay the said decree, and it is still in full force and effect and binding upon the said defendants and each of them, the said Samuel Gompers, Frank Morrison and John Mitchell included.

V.

Reference is hereby made to the original bill and exhibits filed in support of the same, the answer and amended answer of the defendants, the testimony taken on both sides, the original order restraining and enjoining the defendants *pendente lite* and the final decree in the cause and each and every other paper and proceeding in this cause from the institution of the suit to the filing of this petition, and it is prayed that the same may be taken and read as a part hereof at any and all hearings upon this petition, whether in this court or upon appeal from its decision herein rendered.

VI.

Notwithstanding the said order restraining and enjoining the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell included, passed by the court on the 18th day of December, A. D. 1907, and notwithstanding the final decree in the cause, passed on the 23rd day of March, A. D. 1908, perpetually restraining and enjoining the defendants, the said Samuel Gompers, Frank Morrison and John Mitchell, included, all as above set out, the said Samuel Gompers, Frank Morrison and John Mitchell have, since the filing of the said bill and the passage and entry of the said order, as well as of the final decree, frequently, regularly and systematically, willfully and with premeditation, violated the said order and the said final decree alike, and have totally disregarded the same; and, in so doing, they have acted in gross and willful contempt of the authority of the court and its order and action in the premises, as hereinafter set out: the said Samuel Gompers having, some ten years ago, suggested the course of conduct which has been pursued in this case by him and by the said Frank Morrison and John Mitchell, and all of them having since repeated that suggestion.

VII.

Heretofore, to wit, the 13th day of December, A. D. 1897, at the convention of the defendant, American Federation of Labor, held at Nashville, Tennessee, the said Samuel Gompers, being then, as now, the president of the said defendant, American Federation of Labor, in reporting, as its president, to the convention of the said defendant, used the following language, to be found at pages 23 and 24 of the official report of the proceedings of the American Federation of Labor for the year 1897, which were prepared, authenticated and circulated by the said Frank Morrison, he being then, as now, secretary of the defendant, American Federation of Labor, and which were published by order of the said convention, and, by like order, republished by the said Frank Morrison in or about the year 1905:

“Boycotts and Court Decisions.

“Recently one of the branches of the Federal courts decided by majority vote that the boycott is illegal. Whether the decision rendered is applicable to all cases or simply to the one immediately under consideration has not yet fully transpired. It is manifest that the workers should have the same right which other citizens enjoy, the right which neither constitutions grant nor courts can deny—the right to stand by our friends, patronize our sympathizers and co-operators, and to withhold our patronage from those who are antagonistic to us and our cause, and the further right to acquaint our people with our preferences. While there is no desire here to argue in favor of our rights, we should demand the change of any law which curbs the privilege and the right of the workers to exercise their normal and natural preferences. In the meantime, we should proceed as we have of old, and wherever a court shall issue

an injunction restraining any of our fellow-workers from placing a concern hostile to labor's interest on our unfair list; enjoining the workers from issuing notices of this character, the further suggestion is made that upon any letter or circular issued upon a matter of this character, after stating the name of the unfair firm and the grievance complained of, the words, 'We have been enjoined by the courts from boycotting this concern,' could be added with advantage."

And the conduct and acts of the said Samuel Gompers herein after set out have been designed and carried out in accordance with the scheme or plan so outlined by him at the convention of the defendant, American Federation of Labor, held at Nashville in December, 1897.

VIII.

And, when on the stand as a witness for the defendants in this cause, on January 30, 1908, the attention of the said Samuel Gompers, on cross-examination, was called to the portion of his report to the Nashville, 1897, convention set out in the last paragraph of this petition, and he was thereupon interrogated, and replied in respect to the same as follows:

"Q. Have you ever recalled that suggestion? A. No, sir; I would rather reaffirm it.

"Q. You would reaffirm it? A. It is a very long quotation, and my answer requires some little amplification of it, so that I may be fully understood.

"Q. This is the particular part to which I desire to direct your attention (reading):

"'In the meantime we should proceed as we have of old, and wherever a court shall issue an injunction restraining any of our fellow-workers from placing a concern hostile to labor's interest on our unfair list, enjoining the workers from issuing notices of this character, the further suggestion is made that upon any letter or circular issued upon a matter of this character, after stating the name of the unfair firm and the grievance complained of, the words "we have been enjoined by the courts from boycotting this concern" could be added with advantage.'

"You have stated that you have never recalled that? A. No, sir; I have never recalled it, and I think—you can imagine that in a report, the whole subject can not be comprehended.

"Q. You can explain it later. You have answered it sufficiently. We want to get along. A. Just let me make a memorandum, then, so that I will not forget it."

And on re-direct examination he was asked the following question and made the following answer:

"Q. In asking you about the report of 1897, Mr. Davenport said you made reference to a decision then which enjoined boycotts and which, in your report, you said whether it was general or not, you could not determine, etc., and then you requested to be permitted at that time to go on and say something further: but you were not allowed to do so. Is there anything now that you care to say about

that report? A. I suggested to the organizations of labor that they make the statement that they had been enjoined, if an injunction had been issued, by a court—a single statement of fact.”

IX.

Thereafter, in the November, 1902, number of the American Federationist, of which the said Samuel Gompers was then, as he now is, its duly authorized editor, in the editorial column thereof, under the name of the said Samuel Gompers, at page 808, he printed and published the following:

“We beg to say plainly and distinctly to Mr. Merritt and fellow-sympathizers that the American Federation of Labor will never abandon the boycott, and that the threats against the Federation are idle, impotent, and impudent.”

The said American Federationist, as set out in Paragraph IV of the original bill in this cause, is the official organ of the said defendant, American Federation of Labor, and has a wide circulation, not only among the members of the said Federation, but among the public generally.

X.

The original bill in this cause having been filed on, to wit, the 19th day of August, A. D. 1907, and the process of subpoena having been served upon the said Samuel Gompers, as a defendant named in the bill, on to wit, the 20th day of August, A. D. 1907, thereafter, to wit, on the same day, or the day following, the said Samuel Gompers not only stated his intention of not complying with any order which might be passed by the court pursuant to the prayers of the said bill, but publicly stated such intention in an interview with the representatives of three prominent newspapers, and the said interview was extensively published throughout the country, including the city of Washington, in the District of Columbia. In the course of said interview so published, the said Samuel Gompers said: “When it comes to a choice between surrendering my rights as a free American citizen or violating the injunction of the courts, I do not hesitate to say that I shall exercise my rights, as between the two.” This statement of the said Samuel Gompers, at or about the time of the filing of the bill in this cause, was made in accordance with, and pursuant to, the suggestion and purpose outlined by him at the Nashville convention above mentioned, ten years earlier.

XI.

Thereafter, to wit, on the 5th day of September, A. D. 1907, the said Samuel Gompers, at the Jamestown Exposition, in the course of his Labor Day speech, delivered as a public address, said:

“An injunction is now being sought from the Supreme Court of the District of Columbia against myself and my colleagues of the Executive Council of the American Federation of Labor. It seeks to enjoin us from doing perfectly lawful acts; to deprive us of our lawful and constitutional rights. So far as I am concerned, let me say that never have I, nor ever will I,

violate a law. I desire it to be clearly understood that when an court undertakes without warrant of law by the injunction process to deprive me of my personal rights and my personal liberty guaranteed by the Constitution, I shall have no hesitancy in asserting and exercising those rights."

This language of the said Samuel Gompers was published broadly and generally in the daily press throughout the country, as he knew it would be. Not only so but in the October, 1907, number of the American Federationist he published the same at length in the editorial column of the said publication, under his own name at page 789 thereof. And the said Samuel Gompers has, on numerous occasions since then, repeated and reaffirmed his said threats to violate any injunctive process of the court in this case which should be issued, and which has been issued, and is now in force against him, and has carried out his said threats by persistently violating the said injunctive process.

XII.

In the same October, 1907, number of the American Federationist at page 785, in the editorial column thereof, under his own name after reciting on the preceding page the filing of the original bill in this cause and the institution of the present suit, the said Samuel Gompers used the following language, referring directly and specifically to this cause:

"So long as the right of free speech and free press obtains, we shall publish the truth in regard to all matters. If any person or association challenges the accuracy of any of our statements, we are willing to meet him or them in the courts and defend ourselves. So long as we do not print anything which is libelous or seditious, we propose to maintain our rights and exercise liberty of speech and liberty of the press. If for any reason, at any time, the name of the Buck's Stove and Range Company does not appear upon the "We Don't Patronize" list of the American Federationist (unless that company becomes fair in its dealings toward labor), all will understand that the right of free speech and free press are denied us; but even this will not deprive us, or our fellow-workmen or those who sympathize with our cause, from exercising their lawful right and privilege of withholding their patronage from the Valley Cleave Company—the Buck's Stove and Range Company of St. Louis.

"So far as we are personally and officially concerned, we have fully stated our position in the American Federationist and elsewhere.

"Do not fail to keep the Buck's Stove and Range Company of St. Louis in mind and remember that it is on the unfair list of organized labor of America."

XIII.

And in the same October, 1907, number of the American Federationist, at pages 791 and 792 thereof, in the column headed 'Ed

torial Notes,' the same Samuel Gompers, referring to this cause, used the following language:

"So labor must not use its patronage as it will—that is, if Van Cleave of Buck's Stove and Range Company fame has his way. But what vested right has that company in the patronage of labor or of labor's friends? It is their own to withhold or bestow as their interest or fancy may direct.

"They have a lawful right to do as they wish, all the Van Cleave's, all the injunctions, all the fool or vicious opponents to the contrary notwithstanding.

"Wonder whether Van Cleave will try for an injunction compelling union men and their friends to buy the Buck's Stove and Range Company's unfair product?

"Until a law is passed making it compulsory upon labor men to buy Van Cleave's stoves we need not buy them, we won't buy them, and we will persuade other fair-minded, sympathetic friends to co-operate with us and leave the blamed things alone.

"Go to — with your injunctions."

And, under the same heading, he published the following additional statement:

"The Buck's Stove and Range Company, of St. Louis (of which Mr. Van Cleave is president), will continue to be regarded and treated as unfair until it comes to an honorable agreement with organized labor. And this, too, whether or not it appears on the 'We Don't Patronize' list."

Pursuant to said declarations and threats of the said Samuel Gompers, the name of petitioner has been retained and published in the "Unfair" list in the journal of the International Metal Polishers' Union, described in the original bill in this cause, to wit, in its issues of November and December, 1907, and January, February, March, April, May, June, and July, 1908, as will be seen by reference to the said issues, herewith filed as Exhibit Petitioner No. 4.

XIV.

Thereafter, on, to wit, the 14th day of November, A. D. 1907, the application for an injunction *pendente lite* came on for hearing before the court, and the hearing of the same occupied several days, at the conclusion of which the cause was taken under consideration by the presiding justice. After the cause had been submitted to the court, and, before its decision in the premises had been rendered, the said Samuel Gompers and Frank Morrison, in anticipation of the granting of said application, and for the purpose of nullifying and defeating the effect of any injunction which should be issued in the premises, prepared, published, and distributed a circular letter, signed by the said Samuel Gompers and Frank Morrison, copies of which were by them transmitted and caused to be transmitted to the various unions affiliated with the American Federation of Labor in the several States and Territories of the United States and Canada, on or about its date, November 26, 1907, to the number of twenty-seven thousand, as will be seen by reference to the stipulation of counsel for the respective parties, filed in this cause on, to wit, the

8th day of April, A. D. 1908. The said circular letter is, in part, as follows:

"Mr. Van Cleave for the Buck's Stove & Range Company, brought suit against the American Federation of Labor and its Executive Council and has petitioned the court for an injunction to prohibit the American Federation of Labor from in any way advising organized labor and its friends of the fact that The Buck's Stove and Range Company is unfair to its employees and for that reason its name is published upon the American Federation of Labor "We Don't Patronize" list.

"The court will soon give a decision on the legal issue which has been raised. We shall continue to maintain that we have the right to publish the name of the Buck's Stove & Range Company upon the "We Don't Patronize List." Should we be enjoined by the court from doing so, the merits of the case will not be altered, nor can any court decision take from any man the right to bestow his patronage where he pleases."

The said letter so prepared, issued, and caused to be circulated by the said Samuel Gompers and Frank Morrison, further stated:

"Bear in mind that you have a right to decide how your money shall be expended.

"You may or may not buy the products of the Buck's Stove & Range Company.

"There is no law or edict or court that can compel you to buy a Buck's stove or range.

"You can not be prohibited from informing your friends and sympathizers of the reason why you exercise this right. You have also the right to inform business men handling the Buck's Stove & Range Company's products of its unfair attitude toward its employees, and ask them to give their sympathy and aid in influencing the Buck's Stove & Range Company to deal fairly with its employees and come to an honorable agreement with the union primarily at interest.

"It would be well for you as central bodies, local unions, and individual members of organized labor and sympathizers to call on business men in your respective localities, urge their sympathetic co-operation, and ask them to write to the Buck's Stove & Range Company, of St. Louis, urging it to make an honorable adjustment of its relations with organized labor.

"Act energetically and at once. Report the result of your effort to the undersigned.

"SAM'L GOMPERS,

"President, American Federation of Labor.

"FRANK MORRISON,

"Secretary."

XV.

And thereafter, to wit, the 17th day of December, A. D. 1907, the court filed its opinion in the cause, to the effect that the complainant was entitled to the injunction *pendente lite* as prayed in the original bill; and on, to wit, the 18th day of December, A. D.

1907, passed the order set out in Paragraph II of this petition. The said order became operative and effective by the giving of the undertaking required by it on, to wit, the 23d day of December, A. D. 1907, and has never been revoked or altered. Notwithstanding the passage and entry of this order and the taking effect of the same by the giving of the undertaking as aforesaid, the said Samuel Gompers and Frank Morrison, having set in motion the instrumentalities devised by them for the obstruction and nullification of the order when entered, have failed to take any action whatever to prevent that result, but, on the contrary, have since taken other steps, as will hereafter appear, for the more effectual carrying out of the plan and purpose outlined in said circular letter.

XVI.

The order for an injunction *pendente lite* having been passed on the 18th day of December, A. D. 1907, and the injunction having taken effect and become operative on the 23rd day of December, A. D. 1907, as above stated, the said Samuel Gompers, as will be seen by reference to his deposition in this cause, hastened or "rushed" the publication of the January, 1908, issue of the American Federationist, with a view to circulating the same during the time which should elapse between the passage of the said order for an injunction, and the injunctive order itself. The said January, 1908, number, at page 51, includes and publishes in full the "We Don't Patronize" or "Unfair" list of the American Federation of Labor, containing the name of petitioner; and at page 38 of the said issue, the said Samuel Gompers published the following:

"A limited number of the American Federationist for 1907, bound in two volumes, may be had on application to this office. The 1907 volumes are bound in the same style as the preceding years.

"The official printed proceedings of the Norfolk convention of the A. F. of L. are now ready and can be had upon application by mail, 25 cents per single copy, \$20 per hundred. Postage prepaid by the A. F. of L."

The said proceedings of the Norfolk convention contain, at page 91, the name of petitioner as being on the "Unfair" list of the American Federation of Labor.

Notwithstanding the fact that the injunction *pendente lite* had taken effect on the 23rd day of December, A. D. 1907, the said Samuel Gompers and the said Frank Morrison thereafter continued to circulate and distribute the said issue, containing the name of petitioner as aforesaid, and notwithstanding the fact that the permanent injunction has since been entered in this cause, they have, from the said 23rd day of December, A. D. 1907, to the present time, continued, uninterruptedly, to circulate and distribute to the public generally copies of the said January, 1908, number of the American Federationist, of the proceedings of the Norfolk convention above mentioned, and bound copies of the American Federationist for the year 1907, the latter containing in each of the May, June, July, August, September, October, November and December

numbers thereof, the name of petitioner on the "We Don't Patronize" or "Unfair" list of the American Federation of Labor; all in violation and willful disregard and contempt of the injunctive order and decree of the court in this cause.

XVII.

Thereafter, to wit, in the February, 1908, number of the American Federationist, the said Samuel Gompers, in the editorial column thereof, under his own name, published a lengthy article concerning the said order, at pages 98 to 105, inclusive, and the said Samuel Gompers, Frank Morrison, and John Mitchell published, at pages 112 and 113 of the said number of the American Federationist, what they denominated an "Urgent Appeal," signed by the defendant, Samuel Gompers, as president, the defendant, Frank Morrison, as secretary, and the defendants, James Duncan, John Mitchell, James O'Connell, Max Morris, D. A. Hayes, Daniel J. Keefe, William D. Huber, Joseph F. Valentine, as vice-presidents, and the defendant, John B. Lennon, as treasurer, composing the Executive Council of the American Federation of Labor, in which they made special reference to said editorial article as containing a full presentation of the said defendants' position in regard to said order of injunction. In the course of both the said editorial and the said "Urgent Appeal," it was stated that the order is an invasion of the liberty of the press and the right of free speech, and further stated in said editorial that "With all due respect to the court, it is impossible for us to see how we can comply with all the terms of this injunction," and further stated in said editorial as follows:

"This injunction can not compel union men or their friends to buy the Buck's stoves and ranges. For this reason, the injunction will fail to bolster up the business of this firm, which it claims is so swiftly declining.

"Individuals, as members of organized labor, will still exercise the right to buy or not to buy the Buck's stoves and ranges. It is an exemplification of the saying that 'You can lead a horse to water, but you can't make him drink,' and more than likely these men of organized labor and their friends will continue to exercise their right to purchase or not purchase the Buck's stoves and ranges.

"It may not be amiss here to say that in all these proceedings, whether before the court or in the contest forced upon labor by the Buck's Stove and Range Company, no element of personal malice or ill-will enters. Labor is earnestly desirous of entering into friendly relations with employers, and this is none the less true of its desire to reach an honorable adjustment and agreement with the Buck's Stove and Range Co. So long, however, as that company continues in its hostile attitude to labor, denying it the right to organize, discriminates against union members, and refuses to accord conditions of employment generally regarded as fair in the trade, it must expect retaliatory measures; these measures always, however, within the law and for the purpose of ultimately reaching an honorable, mutually advantageous agreement.

"The publication of the Buck's Stove and Range Co. on the 'We

Don't Patronize' list of the American Federation of Labor is only an incident in the history of the case. These stoves might have been left as severely alone by purchasers if they had never been mentioned on that list. It is not the matter of removing that firm from the list against which we primarily protest, it is this injunction invading the freedom of the press."

And, at pages 114 and 115 of the said February, 1908, number of the American Federationist, the said Samuel Gompers published the order itself at length, prefacing the same with the following statement:

"In the official organ of the National Association of Manufacturers, one of the counsel for the Buck's Stove and Range Company declares that punishment for violation of the injunction issued by Justice Gould, against the American Federation of Labor, applies particularly to those within the territorial limits of the District of Columbia who violate the terms of the injunction. That those who violate the terms of the injunction in any other part of the country outside of the District of Columbia can be punished only when they thereafter come within the territorial limits of the District of Columbia. Counsel for the American Federation of Labor assure us that this construction of the court's order is accurate."

Petitioner is advised and believes, and therefore avers, that the said statement prefacing the publication of the order of December 18, 1907, is an incorrect interpretation of the effect of the said order, and was made for the purpose of defeating, and of inducing others to violate, the same; and that the publication of the said order, prefaced as aforesaid, and of the said editorial, constituted a violation of the injunction *pendente lite* and a contempt of the order of the court. A copy of the said February, 1908, number of the American Federationist is herewith filed, marked Exhibit Petitioner No. 1, and it is prayed that the said editorial, the said "Urgent Appeal," and the references on pages 114 and 115 thereof to the said order, be taken and read as a part of this petition.

XVIII.

The said John Mitchell, as set out in Paragraph IV of the original bill in this cause, is a vice-president and a member of the Executive Council of the defendant, American Federation of Labor. Until the first day of April, A. D. 1908, and for many years prior thereto, he was also the president of the United Mine Workers of America, one of the subordinate national and international unions of the defendant, American Federation of Labor, referred to in Paragraph IV of the original bill in this cause and in Exhibit C thereto attached, and the chairman of its Executive Board, by which Executive Board is published weekly the United Mine Workers' Journal, the official organ of the said United Mine Workers of America. In the issue of the said United Mine Workers' Journal of January 30, 1908, the said John Mitchell caused or permitted to be published the above-mentioned editorial, "Urgent Appeal," and statement prefacing the said injunction order as published in the February, 1908, number of the American Federationist, as will be seen by ref-

erence to pages 6, 15, and 16 of the said issue of January 30, 1908, a copy of which is herewith filed, marked Exhibit Petitioner No. 2, and prayed to be taken and read as a part of this petition. The said United Mine Workers of America comprise several hundred thousand members, and its official organ is circulated generally among the members of the said association, and the public at large.

On, to wit, the 25th day of January, A. D. 1908, at the Nineteenth Annual Convention of the United Mine Workers of America, held at Indianapolis, Indiana, the defendant, John Mitchell, its president, being in the chair, the following resolution was laid before the convention by the said defendant, John Mitchell, put to a vote and adopted unanimously, and by him so declared:

“Resolution No. 73.

“Whereas, The Buck's Stove and Range Company, of St. Louis, Mo., have taken legal steps to prevent organized labor in general, and the officers and executive committee of the A. F. of L., in particular, from advertising the above-named firm as being on the ‘Unfair’ or ‘We Don't Patronize’ list, and

“Whereas, By the issue of such an injunction or restraining order as prayed for by above named firm organized labor will be deprived of one of its most effective weapons, and

“Whereas, J. W. Van Cleave, the president of above-named firm, also president of the National Manufacturers' Association, stated that in a few years' time he would disrupt organized labor; therefore, be it

“Resolved, That the U. M. W. of A., in Nineteenth Annual Convention assembled, place the Buck's stoves and ranges on the unfair list, and any member of the U. M. W. of A. purchasing a stove of above make be fined \$5.00, and failing to pay the same be expelled from the organization.”

And, thereafter, to wit, the 30th day of January, A. D. 1908, the said John Mitchell caused or permitted the official report of the proceedings of the said convention to be published in the above mentioned issue of the said United Mine Workers' Journal, including the said resolution and the action taken thereupon, as will be seen by reference to page 7 of Exhibit Petitioner No. 2, above referred to.

And the said John Mitchell also caused or permitted the following to be published on the front page of the issue of the said United Mine Workers' Journal on the 9th day of January, A. D. 1908, as will be seen by reference to a copy of said issue herewith filed, marked Exhibit Petitioner No. 3, and prayed to be taken and read as a part of this petition:

“Unlawful Boycott.

“Our readers should govern themselves accordingly and allow all to live unmolested.

“Here is something clever and cute from the Galesburg Labor News:

“Whether or not the Manufacturers' Association, who were behind the Buck Stove and Range Company in instigating the suit, will ac-

accomplish their desired results is difficult to say. Trades unionists will fail to see wherein they will. For no power on earth can compel a man to buy something he does not want to and an announcement something on this order is enough to indicate to a union man that not to buy:

It is unlawful for the American Federation of Labor to boycott Buck Stoves and Ranges.

Justice Gould in the Equity Court of the District of Columbia, December 17th, handed down a decision granting the company temporary injunction preventing the Federation from publishing this firm as

Unfair to Organized Labor.

The above could hardly be construed to conflict with the law, since it is a statement of facts.

"A funny thing about this case is that the boycott has been on this firm for more than a year. Now, the unions have their attention directed to it for fair."

And the peculiar arrangement of type in the said article, whereby particular display is given to the words "Boycott Buck Stoves and Ranges" and "Unfair to Organized Labor," without making these direct statements in the context of the article published, was devised and designed for the express purpose of violating the injunction of this court, whereby the publication of these statements is forbidden, and of causing the said publication to be reprinted and distributed and scattered broadcast throughout the land.

"The said publication in the January 9, 1908, issue of the United Mine Worker's Journal was taken up and followed by the labor press, as it was intended to be, and was extensively reprinted, and circulated broadly, throughout the country, including the Cleveland Citizen of Cleveland, Ohio, published by the United Trades and Labor Council of that city, in its issue of January 18, 1908; the Labor Journal, the official organ of the New York Allied Printing Trades Council and of the Central Trades and Labor Council, published at Rochester, New York, in its issue of January 10, 1908; the St. Louis Labor, published at St. Louis, Missouri, in its issue of January 18, 1908, and in its weekly issues from then to the present time, and the Springfield Tradesman, published at Springfield, Missouri, in its issue of January 18, 1908; all as will be seen by reference to the deposition of the said Samuel Gompers, on file and of record in this cause, and the exhibits herewith filed, to all of which reference is hereby made.

XIX.

Thereafter, to wit, in the March, 1908, number of the American Federationist, the said Samuel Gompers, in the editorial column thereof, at page 192, in pursuance of his plan to nullify the said order of the court in this cause passed, to disregard and disobey the same, to injure and interfere with the petitioner's business and the sale of its product by means forbidden in the said order, and to induce the members of the American Federation of Labor, and the public, not to patronize the petitioner, or buy its product, and

to keep the boycott against the petitioner constantly in mind, and to maintain the same, though forbidden to do so by the said order, published the following statement:

"It should be borne in mind that there is no law, aye, not even a court decision, compelling union men or their friends of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat."

XX.

And, for the like purpose, the said Samuel Gompers and the said Frank Morrison published, in the April, 1908 number of the American Federationist, the statements hereafter referred to; the final decree in this cause granting a permanent injunction against the defendants, the said Samuel Gompers and Frank Morrison included, having been entered on the 23rd day of March, A. D. 1908, and prior to the publication of the said April, 1908, number.

In the editorial column thereof, under his own name, the said Samuel Gompers published, at page 279, the following:

"The temporary injunction issued by Justice Gould, of the Court of Equity, of the District of Columbia, in the (Van Cleave) Buck's Stove and Range Company of St. Louis, against the American Federation of Labor, its officers and all others, has been made permanent. The case will now be carried to the Court of Appeals of the District of Columbia.

"It should be borne in mind that there is no law, aye, not even a court decision, compelling union men or their friends of labor to buy a Buck's stove or range. No, not even to buy a Loewe hat."

And in the official column of the said issue, at page 295, over their signatures, in an official letter addressed to State branches and central bodies, the said Samuel Gompers and Frank Morrison published the following statement:

"Bear in mind that an injunction issued by a court in no way compels labor or labor's friends to buy the product of the Van Cleave Buck's Stove and Range Company of St. Louis.

"Fellow-workers, be true and helpful to yourselves and to each other. Remember that united effort in cause of right and justice must triumph."

XXI.

Thereafter, to wit, on the 19th day of April, A. D. 1908, in the course of a public address to a large gathering of working people in the city of New York, the said Samuel Gompers, for the like purpose, made the following statement:

"They tell us that we must not boycott. Well, if the boycott is illegal, we won't boycott. But I have no knowledge that any law has been passed or any order issued by any court compelling us to buy, for instance, a range or a stove from the Buck's Stove and Range Company. You know that myself and several others are enjoined from telling you, and we are not prepared to tell you, that the Buck's Stove and Range Company is unfair. There are a number of men who have been having suit brought against them for two hundred and forty thousand dollars. That is not very much,

between you and me; but a few hatters in Danbury, Connecticut, are being sued for saying that Loewe and Company, hat manufacturers, of Danbury, Connecticut, are unfair. I am not prepared to say that that is in violation—that they are unfair.

"Of course, in the case of the Buck's Stove and Range Company, if I told you that the Buck's Stove and Range Company was still unfair, when I got back to Washington tomorrow, or some place where they say people play checkers with their noses—well, as I say, I am not prepared to tell you that these things are unfair. But there is no law, no court decision that compels you to buy them, nor does any law compel you to buy anything without the union label.

"But boycotting, I think—I am sure that the term itself has been coined within my lifetime—boycotting, in its essence and effect and practice, has been in vogue since man began. I do not care what conception you may have of the beginning of human existence. I still assert that the word "boycott" had its origin from the beginning of man's life. Of course, it was not known as the boycott.

"The term 'boycott' originated in Ireland about twenty-five years ago, when the people of the Green Isle were up in protest against British misrule, and they adopted a plan against a certain agent for one of the land owners. This agent was known by the name of Captain Boycott. They did not say they were going to boycott him, but they simply said, in the language of the time, that they were going to send to Coventry. Coventry was not an attractive country place, so that after the action had been accomplished in regard to this gentleman, the term, instead of sending anyone to Coventry, was changed to boycotting him; in other words, it was either an implied understanding or an expressed declaration that the people would have no dealings with him insofar as it was possible. And then came the word "boycott," and it has come into our dictionaries and into our lexigraphs, as well as into our court decisions. Now, my friends, I do not think that what it is human to do, what it is human and humane to do, can be by any species of misinterpretation expected to be an illegal or improper act. You can not make me buy anything I do not want to buy. I can tell my friends to do likewise, and they have a right to do what I have a lawful right to do and I have a legal right to tell them to do. No man has a vested right in my patronage. I have a right to bestow; I have a right to withhold and transfer it to anyone else, and I want to say this about that, injunction or no injunction, I won't buy a Loewe hat nor a Buck's stove or range."

And the said Samuel Gompers made the foregoing remarks in pursuance of his plan of violating, disregarding and disobeying the said order of the court and keeping the boycott against this petitioner in the minds of the members of the American Federation of Labor, and of the public, and for the purpose of urging and encouraging the enforcement of the said boycott against the petitioner, of deterring dealers from buying petitioner's product or offering same for sale, and of ruining and destroying its business.

XXII.

And, in pursuance of his said plan, and for the like purpose thereafter, in the editorial column of the May, 1908, number of the American Federationist, under his own name, at page 383, the said Samuel Gompers published the following statement:

"I want to assure you on my word of honor that so long as I live I will never buy a Loewe hat or a Buck's stove or range until these gentlemen come into agreement with organized labor and grant us conditions of fairness. Then they will get support and help. Until then, you may call it by any other name—boycott or no boycott—but I won't buy your hats anyhow."

XXIII.

And, in further pursuance of his said plan, and for the like purpose, the said Samuel Gompers, in a public address delivered before a large gathering of working people on, to wit, the first day of May, A. D. 1908, in the city of Chicago, Illinois, made the following statement:

"I might say just parenthetically about the hatters' case that you are not now permitted to boycott the Loewe hats, but I want to call your attention to the fact that there is no law compelling you to wear a Loewe hat, nor has any judge issued a mandamus compelling you to buy a Loewe hat. That applies equally to Mr. Van Cleave's stoves and ranges. And, by the way, I don't know why you should buy any of that sort of stuff. I won't; but that is a matter to which we can refer more particularly in our organizations."

And thereafter, for the purpose of more widely disseminating the said statement, the said Samuel Gompers published the same in the June, 1908, number of the American Federationist, at pages 467 and 468 thereof.

XXIV.

And, for the purpose of more effectually carrying out his said plan, and for the like purpose, the said Samuel Gompers, thereafter, in the editorial column of the July, 1908, number of the American Federationist, at page 531 thereof, under his own name, published the following statement:

"The Supreme Court of the District of Columbia has made permanent the injunction issued by Justice Gould enjoining the American Federation of Labor, its officers, its affiliated unions and their members and friends from declaring that the Van Cleave Buck Stove and Range Company of St. Louis is on the unfair list of the American Federation of Labor or the publication of that statement in the American Federationist. An appeal will be taken to the Court of Appeals of the District of Columbia, and, if necessary, to the United States Supreme Court. The injunction does not compel anyone to buy the Van Cleave Buck Stoves and Ranges, nor has any decree been issued compelling anyone to buy Loewe's hats."

XXV.

Each, and every of the issues of the American Federationist in this petition mentioned has been circulated and distributed, in large numbers, by the defendant Frank Morrison, secretary of the defendant, American Federation of Labor, and circulating and distributing agent of the American Federationist, and the said issues have been so distributed by him, in disregard and violation of the order and decree of the court in the premises, among the various subordinate unions of the defendant, American Federation of Labor, as described in Paragraph IV of the original bill in this cause, and also to the public, and extensively read throughout the country; and the said Frank Morrison, in so doing, has been fully aware of the contents of the said publication, and prompted by the same purposes which controlled and influenced the defendant Samuel Gompers in preparing and delivering the writings and speeches so set out in the said issues of the American Federationist.

XXVI.

"Though the said Samuel Gompers, Frank Morrison, John Mitchell and the other defendants to the original bill, their and each of their agents, servants, attorneys, confederates, and any and all persons acting in aid of or in conjunction with them or any of them are, by the order of this court of December 18, 1907, restrained and enjoined pending litigation, and by the order of March 23rd, 1908, perpetually restrained and enjoined from conspiring, agreeing or combining in any manner to restrain, obstruct or destroy the business of the complainant, or to prevent the complainant from carrying on the same without interference from them or any of them, and from interfering in any manner with the sale of the product of the complainant's factory or business by defendants, or by any other person, firm or corporation, and from declaring or threatening any boycott against the complainant, or its business, or the product of its factory, or against any person, firm or corporation engaged in handling or selling the said product, and from abetting, aiding or assisting in any such boycott, and from printing, issuing, publishing, or distributing through the mails, or in any other manner, any copies or copy of the American Federationist, or any other printed or written newspapers, magazine, circular, letter or other document or instrument whatsoever, which shall contain or in any manner refer to the name of the complainant, its business or its product in the "We Don't Patronize" or the "Unfair" list of the defendants, or any of them, their agents, servants, attorneys, confederates, or other person or persons acting in aid of or in conjunction with them, or which contains any reference to the complainant, its business or product, in connection with the term "Unfair," or with the "We Don't Patronize" list, or with any other phrase, word or words of similar import, and from publishing or otherwise circulating, whether in writing or orally, any statement, or notice, of any kind or character whatsoever, calling attention to the complainant's customers, or of dealers or tradesmen, or the public, to any boycott against the complainant, its business or its

product, or that the same are, or were, or have been declared to be "unfair," or that it should not be purchased or dealt in or handled by any dealer, tradesman, or other person whomsoever, or by the public, or any representation or statement of like effect or import for the purpose of, or tending to any injury to or interference with the complainant's business, or with the free and unrestricted sale of its product, or of coercing or inducing any dealer, person, firm or corporation, or the public, not to purchase, use, buy, trade in, deal in, or have in possession stoves, ranges, heating apparatus, or other product of the complainant, and from threatening or intimidating any person or persons whomsoever from buying, selling, or otherwise dealing in the complainant's product, either directly, or through orders, directions, or suggestions to committees, associations, officers, agents, or others, for the performance of any such acts or threats as hereinabove specified, and from in any manner whatsoever impeding, obstructing, interfering with, or restraining the complainant's business, trade, or commerce, whether in the State of Missouri, or in other States and Territories of the United States, or elsewhere wheresoever, and from soliciting, directing, aiding, assisting, or abetting any person or persons, company or corporation, to do or cause to be done any of the acts or things aforesaid; yet, by the acts, means, devices, and subterfuges aforesaid, the said Samuel Gompers, Frank Morrison, and John Mitchell have designed and sought to continue in force and effect, and have continued in force and effect, in wilful disregard, violation, disobedience, and contempt of the aforesaid order and decree of this court, the boycott against petitioner, and the conspiracy recited in the bill to destroy its business, which they and the other defendants have been and are, by the said order and decree, restrained and enjoined from continuing.

Wherefore, petitioner prays as follows:

(1) That a rule be laid upon the said Samuel Gompers, Frank Morrison, and John Mitchell, requiring each of them to show cause, at a time to be fixed by the court in said rule, why the writ of attachment should not issue against him, and why he should not be adjudged by the court to be in contempt of its order and its decree in this cause, and be punished for the same.

(2) And that petitioner may have such other and further relief as the nature of its case may require."

TUESDAY, November 2d, A. D. 1909.

No. 1990. October Term, 1909.

SAMUEL GOMPERS, JOHN MITCHELL, and FRANK MORRISON,
Appellants,

vs.

THE BUCK'S STOVE & RANGE COMPANY.

Appeal from the Supreme Court of the District of Columbia.

This cause came on to be heard on the transcript of the record from the Supreme Court of the District of Columbia, and was argued

by counsel. On consideration whereof, It is now here ordered and adjudged by this Court that the judgment of the said Supreme Court in this cause be, and the same is hereby, affirmed with costs.

Per Mr. JUSTICE VAN ORSDER,
November 2, 1909.

Mr. Justice Robb concurring.
Mr. Chief Justice Shepard dissenting.

Court of Appeals of the District of Columbia.

I, Henry W. Hodges, Clerk of the Court of Appeals of the District of Columbia, do hereby certify that the foregoing printed and typewritten pages numbered from 1 to — inclusive contain a true copy of the transcript of record and proceedings of said Court of Appeals in the case of Samuel Gompers, John Mitchell and Frank Morrison, Appellants, vs. The Bucks Stove & Range Company No. 1990, October Term, 1909, as the same remain upon the files and records of said Court of Appeals.

In testimony whereof I herewith subscribe my name and affix the seal of said Court of Appeals, at the City of Washington, this 18 day of November A. D. 1909.

[Seal Court of Appeals, District of Columbia.]

HENRY W. HODGES,
*Clerk of the Court of Appeals
of the District of Columbia.*

667 UNITED STATES OF AMERICA, *vs.*

[Seal of the Supreme Court of the United States.]

The President of the United States of America to the Honorable the Judges of the Court of Appeals of the District of Columbia, Greeting:

Being informed that there is now pending before you a suit in which Samuel Gompers, John Mitchell and Frank Morrison are appellants, and The Buck's Stove & Range Company is appellee, which suit was removed into the said Court of Appeals by virtue of an appeal from the Supreme Court of the District of Columbia, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said Court of Appeals and removed into the Supreme Court of the United

668 States, do hereby command you that you send without delay to the said Supreme Court, as aforesaid, the record and proceedings in said cause, so that the said Supreme Court may act thereon as of right and according to law ought to be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 19th day of January, in the year of our Lord one thousand nine hundred and ten.

JAMES H. McKENNEY,

Clerk of the Supreme Court of the United States.

669 [Endorsed:] File No. 21911. Supreme Court of the United States, No. 685, October Term, 1909. Samuel Gompers et al. vs. The Buck's Stove & Range Co. Writ of Certiorari.

670 In the Court of Appeals of the District of Columbia. October Term, 1909.

No. 1990.

SAMUEL GOMPERS et al., Appellants,

vs.

BUCK'S STOVE AND RANGE COMPANY, Appellee.

Stipulation.

It is hereby stipulated between counsel for the respective parties, that the certified transcript of record on file in the office of the Clerk of the Supreme Court of the United States, shall be taken as a return to the writ of certiorari ordered by said Supreme Court to issue in the above entitled cause, the same being No. 685, October term 1909 in said Court.

JACKSON H. RALSTON,

Attorneys for Samuel Gompers, Frank Morrison and John Mitchell.

J. J. DARLINGTON,

Attorney for the Buck's Stove and Range Company.

(Endorsed:) No. 1990. Samuel Gompers, et al., Appellants, vs. The Buck's Stove and Range Company. Stipulation as to Transcript. Court of Appeals, District of Columbia. Filed Feb. 14, 1910. Henry W. Hodges, Clerk.

671 Court of Appeals of the District of Columbia, January Term, 1910.

No. 1990.

SAMUEL GOMPERS, JOHN MITCHELL, and FRANK MORRISON,
Appellants,
vs.
THE BUCK'S STOVE & RANGE COMPANY.

I, Henry W. Hodges, Clerk of the Court of Appeals of the District of Columbia, do hereby certify, in obedience to the writ of certiorari hereto attached and returned herewith, the foregoing to be a true and correct copy of the stipulation of counsel filed in said cause on the 14th day of February, A. D. 1910.

In Testimony whereof, I hereby subscribe my name and affix the seal of said Court at the City of Washington, District of Columbia, this 18th day of February, A. D. 1910.

[Seal Court of Appeals, District of Columbia.]

HENRY W. HODGES,
*Clerk of the Court of Appeals of the
District of Columbia.*

672 [Endorsed:] File No. 21,911. Supreme Court U. S. October Term, 1909. Term No. 685. Samuel Gompers et al., Petitioners, vs. The Buck's Stove & Range Co. Writ of Certiorari and Return. Filed February 18, 1910.

GOMPERS v. BUCKS STOVE & RANGE COMPANY.

CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

No. 372. Argued January 27, 30, 1911—Decided May 15, 1911.

An order of a court of equity, restraining defendants from boycotting complainant by publishing statements that complainant was guilty of unfair trade, does not amount to an unconstitutional abridgment of free speech; the question of the validity of the order involves only the power of the court to enjoin the boycott.

Quære as to what constitutes a boycott that may be enjoined by a court of equity; but, in order that it may be enjoined, it must appear that there is a conspiracy causing irreparable damage to complainant's business or property.

Where conditions exist that justify the enjoining of a boycott, the publication and use of letters, circulars and printed matter, may constitute the means of unlawfully continuing the boycott and amount to a violation of the order of injunction.

The Anti-trust Act of 1890 applies to any unlawful combination resulting in restraint of interstate commerce including boycotts and blacklisting whether made effective by acts, words or printed matter. *Loewe v. Lawlor*, 208 U. S. 274.

The court's protective powers extend to every device whereby property is irreparably damaged or interstate commerce restrained; otherwise the Anti-Trust Act would be rendered impotent.

Society itself is an organization and does not object to organizations for social, religious, business, and all other legal, purposes.

On appeal against unlawfully exercising power of organizations it is the duty of government to protect the one against the many as well as the many against the one.

An agreement to act in concert on publication of a signal makes the words used as the signal amount to verbal acts, and, when the facts justify it, the court having jurisdiction can enjoin the use of the words in such connection; and so *held* as to words "unfair" and "we don't patronize" as used in this case for the purpose of continuing a boycott.

Civil and criminal contempts are essentially different and are governed by different rules of procedure.

A proceeding, instituted by an aggrieved party to punish the other

party for contempt for affirmatively violating an injunction in the same action in which the injunction order was issued, and praying for damages and costs, is a civil proceeding in contempt, and is part of the main action, and the court cannot punish the contempt by imprisonment for a definite term; the only punishment is by fine measured by the pecuniary injury sustained.

In criminal proceedings for contempt the party against whom the proceedings are instituted is entitled to the protection of the constitutional provisions against self-incrimination.

There is a substantial variance between the procedure adopted and punishment imposed, when a punitive sentence appropriate only to a proceeding for criminal contempt is imposed in a proceeding in an equity action for the remedial relief of an injured party.

Where the main suit in which an injunction order has been granted is settled and discontinued, every proceeding which is a part thereof, or dependent thereon, is also necessarily settled as between the parties; and so held as to a proceeding instituted by the party aggrieved against the other party for violation of an injunction.

The fact that the party aggrieved by the violation of an injunction deprives himself, by settling the main case, of the right to pursue the violator for contempt does not prevent the court, whose order was violated, from instituting proceedings to vindicate its authority; and in this case the dismissal of the civil contempt proceeding is without prejudice to the power and right of the court whose injunction was violated to punish for contempt by proper proceedings.

33 App. D. C. 516, reversed.

THIS is a proceeding to reverse a judgment, finding that Samuel Gompers, John Mitchell and Frank Morrison were guilty of contempt in violating the terms of an injunction restraining them from continuing a boycott, or from publishing any statement that there was or had been a boycott against the Bucks Stove & Range Company. The contempt case grew out of litigation reported in 33 App. D. C. 83, 516. It will only be necessary to briefly refer to the facts set out in that record.

The American Federation of Labor is composed of voluntary associations of labor unions with a large membership. It publishes the American Federationist, which has a wide circulation among the public and the Federa-

tion. Samuel Gompers is president and editor of the paper. John Mitchell is vice president of the Federation and President of the United Mine Workers, one of the affiliated unions. Frank Morrison has charge of the circulation of the paper. The Federation had a difference as to the hours of labor with the Bucks Stove & Range Company, of which J. W. Van Cleave was president, who was also president of the American Manufacturers' Association. This controversy over the hours of work resulted in a boycott being declared against the Bucks Stove & Range Company, and it was thereupon declared "Unfair" and was published in the American Federationist on the "Unfair" and "We don't patronize" lists. The company filed in the Supreme Court of the District of Columbia its bill against the Federation, the defendants above named and other officers, alleging that the defendants had entered into a conspiracy to restrain the company's state and interstate business, in pursuance of which they had boycotted it, published it on the unfair lists, and had by threats also coerced merchants and others to refrain from buying Bucks' products for fear that they themselves would be boycotted if they continued to deal with that company. The result of the boycott had been to prevent persons from dealing with it and had greatly lessened its business and caused irreparable damage.

After a lengthy hearing, the court on December 18, 1907, signed a temporary injunction, which became effective when the bond required was given on December the 23d. The order is published in the margin.¹

¹ Ordered that the American Federation of Labor, Samuel Gompers, Frank Morrison, . . . John Mitchell, . . . their and each of their agents, servants, attorneys, confederates, and any and all persons acting in aid of or in conjunction with them or any of them be, and they hereby are, restrained and enjoined until the final decree in said cause from conspiring, agreeing or combining in any manner to restrain, obstruct or destroy the business of the complainant, or to

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Thereafter testimony was regularly taken, and on March 23, 1908, the injunction was made permanent, with provisions almost identical with the temporary order of December 17, 1907.

From this final decree the defendants appealed, but be-
prevent the complainant from carrying on the same without interference from them or any of them, and from interfering in any manner with the sale of the product of the complainant's factory or business by defendants, or by any other person, firm or corporation, and from declaring or threatening any boycott against the complainant, or its business, or the product of its factory, or against any person, firm or corporation engaged in handling or selling the said product, and from abetting, aiding or assisting in any such boycott, and from printing, issuing, publishing, or distributing through the mails, or in any other manner, any copies or copy of the American Federationist, or any other printed or written newspaper, magazine, circular, letter or other document or instrument whatsoever, which shall contain or in any manner refer to the name of the complainant, its business or its product in the "We don't patronize," or the "Unfair" list of the defendants, or any of them, their agents, servants, attorneys, confederates, or other person or persons acting in aid of or in conjunction with them or which contains any reference to the complainant, its business or product in connection with the term "Unfair" or with the "We don't patronize" list or with any other phrase, word or words of similar import, and from publishing or otherwise circulating, whether in writing or orally, any statement or notice of any kind or character whatsoever, calling attention to the complainant's customers, or of dealers or tradesmen, or the public, to any boycott against the complainant, its business or its product, or that the same are, or were, or have been declared to be "unfair," or that it should not be purchased or dealt in or handled by any dealer, tradesman, or other person whomsoever, or by the public, or any representation or statement of like effect and import, for the purpose of, or tending to, any injury to or interference with the complainant's business, or with the free and unrestricted sale of its product, or of coercing or inducing any dealer, person, firm or corporation, or the public, not to purchase, use, buy, trade in, deal in, or have in possession stoves, ranges, heating apparatus, or other product of the complainant, and from threatening or intimidating any person or persons whomsoever from buying, selling, or otherwise dealing in the complainant's product, either directly or through orders, directions or suggestions to committees, associations, officers, agents or others, for the

fore a decision was had, the Bucks Stove & Range Company began contempt proceedings, by filing in the Supreme Court of the District a petition entitled "Bucks Stove & Range Company, plaintiff, vs. The American Federation of Labor *et al.*, defendants, No. 27,305, Equity," alleging that petitioner had "filed in this cause its original bill of complaint, naming as defendants, among others, Samuel Gompers, Frank Morrison and John Mitchell." All of the record and testimony in the original cause was made a part of the petition as follows:

"Reference is hereby made to the original bill and exhibits filed in support of the same, the answer and amended answer of the defendants, the testimony taken on both sides, the original order restraining and enjoining the defendants *pendente lite*, and the final decree in the cause, and each and every other paper and proceeding in this cause from the institution of the suit to the filing of this

performance of any such acts or threats as herein above specified, and from in any manner whatsoever impeding, obstructing, interfering with or restraining the complainant's business, trade or commerce, whether in the State of Missouri or in other States and Territories of the United States, or elsewhere wheresoever, and from soliciting, directing, aiding, assisting or abetting any person or persons, company or corporation to do or cause to be done any of the acts or things aforesaid.

And it is further ordered by the court that this order shall be in full force, obligatory and binding upon the said defendants and each of them and their said officers, members, agents, servants, attorneys, confederates, and all persons acting in aid of or in conjunction with them, upon the service of a copy thereof upon them or their solicitors or solicitor of record in this cause: *Provided*, The complainant shall first execute and file in this cause, with a surety or sureties to be approved by the court, or one of the justices thereof, an undertaking to make good to the defendants all damage by them suffered or sustained by reason of wrongfully and inequitably suing out this injunction, and stipulating that the damages may be ascertained in such manner as the justice of this court shall direct, and that, on dissolving the injunction, he may give judgment thereon against the principal and sureties for said damages in the decree itself dissolving the injunction.

petition, and it is prayed that the same may be taken and read as a part hereof at any and all hearings upon this petition, whether in this court or on appeal from its decision herein rendered."

Some of the publications were charged to be in violation of the terms of the temporary injunction, dated December 23, 1907, and others were alleged to be in violation of the final decree dated March 23, 1908.

The petition set out in nine distinct paragraphs, the speeches, editorials and publications made at different times by the several defendants, charging that in each instance they continued and were intended to continue the boycott, and to republish the fact that the complainant was or had been on the "unfair list." It concluded by alleging that by the devices, means, speeches and publications set forth, and in contempt of court the defendants had disobeyed its orders and violated the injunction. The prayer was (1) that the defendants be required to show cause why they should not be attached for contempt, and adjudged by the court to be in contempt of its order and its decree in this cause and be punished for the same. (2) And that petitioner may have such other and further relief as the nature of its case may require. (Signed: Bucks Stove & Range Company, by J. W. Van Cleave, President.) It was also sworn to by the President of the company and signed by its solicitors.

A rule to show cause issued, requiring each of the defendants to show cause why they should not be adjudged to be in contempt and be punished for the same. Each of the defendants answered under oath, and, as treating the contempt proceeding as a part of the original cause, admitted the allegations as to the history of the litigation in paragraphs 2, 3, 4 and 5 of the petition, but "for greater accuracy refer to the record in this cause." Publications were admitted but explained. Each of the defendants denied under oath that he had been in disregard or

contempt of the court's order and denied that any of the acts and charges complained of constituted a violation of the order. There were several issues of fact on which much evidence was taken. This related to the question of intent, and whether there had been a purpose and plan to evade any injunction which might be granted. There was also an issue as to whether John Mitchell had put a resolution to the convention of the United Mine Workers; whether Samuel Gompers and Frank Morrison had rushed the mailing of the January issue of the American Federationist, on December 22, so as to avoid the injunction dated December 17, which became operative on giving bond by complainant on December 23; and also whether they had thereafter sold and circulated copies of this issue containing the Bucks Stove Company on the "Unfair" and "We don't patronize" list. Evidence was taken partly by deposition, partly before an Examiner in Chancery.

Each of the defendants was called as a witness by the complainant, and each testified as to facts on which the allegation of intent or evasion was based, and as to the publications, speeches and resolutions which he was accused of having made, and which the petition alleged constituted an act of disobedience and contempt of court.

The court made a special finding as to two of the nine charges, and then found that all three of the defendants were guilty of the several acts charged in paragraphs 17 and 26; that respondents Gompers and Morrison were guilty of the several acts charged in the sixteenth and twentieth paragraphs; that respondent Morrison was guilty of the acts charged in the twenty-fifth paragraph, and that respondent Gompers was guilty of the several acts charged in the paragraphs 19, 21, 22 and 23. The finding concluded: "The court being fully advised in the premises, it is by it, this twenty-third day of December, A. D. 1908, considered that the said respondents, Samuel

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Gompers, Frank Morrison and John Mitchell, are guilty of contempt in their said disobedience of the plain mandates of the said injunctions; and it is, therefore ordered and adjudged that the said respondent, Frank Morrison, be confined and imprisoned in the United States jail in the District of Columbia for and during a period of six months; that the said respondent, John Mitchell, be confined and imprisoned in the said jail for and during a period of nine months, and that the respondent, Samuel Gompers, be confined and imprisoned in the said jail for and during a period of twelve months, said imprisonment as to each of said respondents to take effect from and including the date of the arrival of said respective respondents at said jail."

On the same day the defendants entered an appeal, which was allowed, and bail fixed. After notice to the defendants the complainant moved "the court to amend or supplement its decree by awarding to it its costs against the defendants under the proceedings in contempt against them." This motion was granted in an order which recited that "upon consideration of the motion of complainant, filed in the above cause for award of its costs in the contempt proceedings in said cause against the defendants Samuel Gompers, John Mitchell and Frank Morrison, and after argument by the solicitors of the respective parties, the motion is granted, and it is ordered that the complainant the Bucks Stove & Range Company do recover against the defendants named, its costs in the said contempt proceeding, to be taxed by the clerk, and that it have execution therefor as at law."

The parties also entered into a stipulation, the material portions of which are as follows:

"For the purpose of avoiding unnecessary cost in the matter of the appeal by the defendants Samuel Gompers, John Mitchell and Frank Morrison from the judgment against them under the contempt proceedings in the above entitled cause, it is stipulated that, . . . with

the approval of the Court of Appeals, the record in the above cause [*Bucks Stove & Range Co. v. American Federation of Labor et al.*] . . . may be read from by either party to the appeal in said contempt proceedings, in so far as the same may be relevant and material, with like effect as if the said record of the original cause were embraced in the transcript, in the appeal from the said contempt proceedings."

This stipulation was signed by counsel for the defendants and for the Bucks Stove & Range Co.

The petition in the contempt proceeding, the answer, orders, final decree, amended decree and stipulation were all entitled in the original cause, "Buck's Stove & Range Company *v.* The American Federation of Labor, Samuel Gompers, John Mitchell, Frank Morrison, *et al.*" The appeal papers in the Court of Appeals of the District were, and those here on certiorari are entitled "Samuel Gompers, John Mitchell and Frank Morrison, appellants, *v.* The Buck's Stove & Range Company."

On December 23, 1908, the defendants were found guilty of contempt, and on the same day they appealed. On March 26, 1909, the Court of Appeals rendered its decision in favor of the Bucks Stove Company on the appeal from the decree of March 23, 1908, and found that the decree was, in some respect, erroneous, and modified it accordingly. From that decision both parties appealed to this court—the Bucks Stove Company contending that it was error to modify in any respect; the American Federation of Labor *et al.*, contending that the Court of Appeals erred in not reversing and setting aside as a whole the decree granting the injunction.

There subsequently came on to be heard in the Court of Appeals of the District of Columbia the appeal from the decree in the contempt proceeding. On that hearing the Bucks Stove & Range Company moved to dismiss the appeal, because the evidence had not been incorporated

in a bill of exceptions, claiming that it was a criminal proceeding and was governed by the practice applicable to law cases. This motion was resisted by the defendants, who contended that the contempt proceedings were a part of the equity cause and that the case was to be governed by equity practice, in which the whole record could be examined on appeal.

The Court of Appeals held that the proceeding was for criminal contempt and that for want of a bill of exceptions it could not examine the testimony but must treat the findings of fact by the judge as conclusive and limit its consideration to the question whether as a matter of law the petition charged and the finding found acts which amounted to a violation of the injunction. It held that some of the facts alleged did constitute a good charge of contempt, and as each of the defendants were found to be guilty of at least one of such acts of disobedience constituting a violation of the injunction and a contempt of court, it held that the conviction must be sustained. This ruling was put on the ground that on a general verdict of guilty, the conviction and sentence on an indictment containing several counts, some of which were bad must stand, if those which were good would sustain the sentence. It therefore not only refused to examine the evidence, to determine whether the proof was sufficient to sustain the conviction, but it also declined to consider the sufficiency of the other charges in the petition, of which the defendants were also found guilty. It affirmed the judgment of the Supreme Court of the District. The defendants thereupon applied for and obtained a writ of certiorari.

The appeal and cross appeal in the original cause of the *Bucks Stove and Range Company v. The American Federation of Labor et al.* were heard here together. During the argument it appeared that the parties had settled their differences and, on the ground that the questions were moot,

this court dismissed both appeals. 219 U. S. 581. Following this disposition of those appeals, and on the same day, the contempt case was called, and was argued by counsel for the Bucks Stove and Range Company and counsel for Samuel Gompers, Frank Morrison and John Mitchell.

Mr. Alton B. Parker and *Mr. Jackson H. Ralston*, for petitioner, with whom *Mr. F. L. Siddons*, *Mr. W. E. Richardson* and *Mr. John T. Walker* were on the brief, for plaintiff in error:

Proceedings for contempt are of two classes,—those prosecuted to preserve the power and vindicate the dignity of the courts and to punish for disobedience of their orders, and those instituted to preserve and enforce the rights of private parties to suits and to compel obedience to orders and decrees made to enforce the rights and administer the remedies to which the court has found them to be entitled. The former are criminal and punitive in their nature and the Government, the court and the people are interested in their prosecution. The latter are civil, remedial and coercive in their nature and the parties generally interested in their conduct and prosecution are the individuals whose private rights and remedies they were instituted to protect or enforce. *In re Nevitt*, 117 Fed. Rep. 448, 460, and cases cited.

This classification of, or distinction between, civil and criminal contempts was quoted with approval by this court in *Bessette v. W. B. Conkey Co.*, 194 U. S. 328. The court adds that it may not be always easy to classify a particular act as belonging to either one of these two classes. It may partake of the characteristics of both. A significant and generally determinative feature is that the act is by one party to a suit in disobedience of a special order made in behalf of the other, quoting approvingly from *In re Debs*, 158 U. S. 564.

The case at bar is clearly within the definitions of a

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civil contempt as set forth in these controlling authorities. It was instituted by a petition made by the Bucks Stove & Range Company; was entitled in the action which had resulted in the order and decree which the petitioner claimed the defendants Gompers, Mitchell and Morrison had disobeyed; asked that all the pleadings, testimony and proceedings in the action be deemed incorporated in the petition and taken and read as a part thereof; prayed that the defendants be punished for a violation of the order and decree and that petitioner should have such other and further relief as the nature of its case may require. The petition was presented to the Supreme Court, sitting as a court of equity, before one of the justices thereof, acting as a chancellor; it was entitled in the equity cause and marked "In Equity"; it was conducted from its beginning to its conclusion according to equity rules; all the testimony was taken before examiners as in chancery practice; it was all taken down in writing and reported to the court; there was never an opportunity or occasion to except to any ruling of the court in the rejection or the admission of testimony; the hearing was had upon the testimony thus reported and it was upon that testimony that the decree or judgment or sentence was based.

The courts below erred, therefore, in holding the proceeding to be one for the presentation of a criminal contempt, and hence a reversal should follow.

The Court of Appeals also fell into error in refusing to consider the evidence which the defendants contend shows that there was no violation of either the order or decree. The reason assigned by it for its action was that exceptions were necessary to bring up the record. But exceptions are neither necessary nor permissible according to the course and practice in equity, and, as we have seen, this was a proceeding in equity and conducted according to its rules from beginning to end by both court and counsel. Hence a reversal is required.

If the court should conclude that it is nevertheless its duty to examine into the merits to see whether a different result would have been required, and examination be made by the Court of Appeals, we urge that the record does not disclose a violation of either the order or decree by these defendants. On the appeal from the final decree in the action the Court of Appeals held that certain provisions of the decree were in excess of the power of the court because it deprived the defendants of the constitutional guarantees of freedom of the press and of speech, and modified it accordingly. It is settled in this court that in a case or proceeding within its jurisdiction as to parties and subject-matter, if the court makes an order in excess of its power it is void. *Ex parte Rowland*, 104 U. S. 604; *Ex parte Harding*, 120 U. S. 782; *In re Ayres*, 123 U. S. 243; *Ex parte Terry*, 128 U. S. 289.

We urge that the provisions the court held to be void were so interwoven with the valid provisions that they cannot be separated without destroying the general scheme and purpose of the decree, and hence that the entire decree should be held to be void.

If, however, this position should not meet with the approval of the court, we claim that the conduct of the defendants must be tested by the decree as modified by the Court of Appeals and not as made by the trial court. Thus tested it will appear that these defendants did not offend against either the letter or spirit of the decree. It is true that the name of the Bucks Stove & Range Company did appear in the "We don't patronize" list of the American Federationist after the order was made forbidding it. But it also appears that this was before the date when the order became effective by its very terms. Certainly the defendants cannot be held to have violated the order before it became operative. Moreover, it should be noted that never after the order went into effect was such a publication made. None of the other publica-

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tions and speeches complained of offend against the decree as modified by the Court of Appeals.

If this court finds otherwise, the decrees of contempt should nevertheless be vacated because they embrace findings of which contempt was, but cannot lawfully be predicated. It cannot be said that the learned justice did not base this unusual and excessive punishment in part upon these findings, for he says necessarily, that he did when he presents them as a portion of the foundation of his sentence.

Mr. Daniel Davenport and Mr. J. J. Darlington for respondent:

The willful violation of an injunction by a party to a cause is a contempt of court constituting a specific criminal offense. *Bullock v. Westinghouse Co.*, 129 Fed. Rep. 107; *Ex parte Kearney*, 7 Wheat. 38, 42; *New Orleans v. Steamship Co.*, 20 Wall. 387, 392; *Hayes v. Fischer*, 102 U. S. 121.

The proceeding to punish for a contempt is in its nature a criminal proceeding, whether the result be only punishment of the party for the insult to the court, or whether a part of the punishment is by way of a fine payable to the party injured as compensation for the damages inflicted upon him by the contemptuous act. The fact that the punishment operates remedially does not alter the nature of the proceeding. Punishment for doing an act forbidden by the injunction is entirely different from punishment as a means of coercion to compel the doing of something commanded. The latter proceeding is properly speaking one for a civil contempt, the former one for a criminal contempt. The nature of the proceeding can readily be determined by an examination of the charge made. If it is for the doing of an act forbidden it is clearly a criminal proceeding, and not one for a civil contempt. It is perfectly apparent from the allegations of

the complaint, the answers of the defendants and the punishment the court inflicted, that the parties concerned all regarded the proceeding as one for the punishment of the accused for doing what they were commanded not to do. The prayer annexed to the complaint was that they be punished for their contempt. It is true that the complainant asked for such further relief as the court might allow as the nature of its case may require. Inasmuch as the thing complained of was an act forbidden to be done, the only relief possible was a fine payable to it as a part of the punishment for the contempt. Many cases sanctioned by this court approve of such joint punishment. *In re Christensen Engineering Co.*, 194 U. S. 458, and cases cited.

In a criminal proceeding to punish for a contempt for the violation of an injunction, no particular method is necessary to be pursued in bringing the matter to the attention of the court. Any sworn statement setting forth the facts is sufficient to authorize the court to proceed to investigate the charge. A rule to show cause why he should not be punished for his contempt is sufficient to bring him before the court, although an attachment may be granted in the first instance, where the case is urgent and the contempt flagrant. The trial may be had on answers, counter-affidavits or some other form of pleading presented as a defense. The defendant must be given opportunity to make explanation or defense. The court may adopt such mode of trial as, in its discretion it sees fit, in order to determine the fact of the contempt, provided due regard is had to the essential rules that obtain in the matter of contempts. Particular questions or issues, upon which to take testimony, may be referred to a referee, master or other designated person. The accusations must be supported by evidence sufficient to convince the mind of the trier beyond a reasonable doubt of the actual guilt of the accused. If satisfied of the guilt of the

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accused the court can find him guilty and inflict the punishment either wholly by way of fine or imprisonment for the public offense, or partially for the benefit of the complainant. And in such proceeding it is perfectly proper and not unusual as a part of the punishment to award his costs to the complainant.

The record in this case shows that all these requirements of the law were duly observed and the rights of the accused properly safeguarded. The court properly found the accused guilty of contempt of its authority and sentenced them to jail. Although it might have done so in this proceeding it did not, however, fine the defendants as a part of the punishment a sum payable to the complainant, except by way of costs.

Although the contempt consists in a violation of an injunction granted by a court of equity, since the proceeding for its punishment is one of law, review can be had only by writ of error, and not by appeal, and as in other law cases, a bill of exceptions is necessary to review any claimed error not otherwise apparent on the face of the record. *Continental Gin Co. v. Murray*, 162 Fed. Rep. 873.

Since there is no bill of exceptions here this court is confined therefore to a review of the sufficiency of the averments of the complaint, the answers, and the judgment of the court thereon. It cannot undertake to determine the fact of guilt or innocence, nor undertake to review rulings on questions of evidence. But it can properly review the two questions about which there is serious controversy here: Was the original order of the injunction void, for want of authority in the court to grant the injunction which was violated, and did the court exceed its authority in punishing them for its violation?

The injunction which the defendants violated was valid. It forbade the defendants to carry on a boycott against the complainant by any means whatever, and particularly,

by putting its name on an unfair list, publishing it as unfair, sending out boycott circulars, or by any act whatever, verbal or otherwise, inciting others to engage in or carry it on. This was a perfectly legitimate exercise of power by the court, frequently exercised by it, sanctioned by numerous precedents and not interfering in the least with any legitimate use of speech or of the press.

That the boycott was illegal; that a person threatened with irreparable injury to his business or property by a boycott has the right to go into a court of equity for protection from it; that the court has the right and power to enjoin the prosecution of the boycott; that the court, in thus enjoining the boycott can enjoin every act that may be resorted to in carrying it out, including all verbal and written acts, and particularly putting the victim on an unfair list, sending out boycott notices and circulars, making speeches for the purpose of prosecuting the boycott, etc., for without this power to prevent such publications it could not stop the boycott; and that the constitutional right of free speech and free press does not extend to secure immunity to the boycotter in such cases, is so well settled and declared by the courts as to render citations unnecessary.

If the injunction in this case had been erroneous, it would have been the duty of the accused to obey it and for the disobedience they would have been properly punished. It is only void injunctions which parties are at liberty to disobey. An injunction erroneous but not void must be as scrupulously obeyed as one entirely valid. There is not the slightest ground for contention here that this injunction was void. The court confessedly had jurisdiction of the parties and of the subject-matter of the cause, and in granting the injunction it exercised its power in conformity with the well settled practice of equity courts.

The court did not exceed its authority in the punish-

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ment it inflicted. It was not excessive. *Savin, Petitioner*, 131 U. S. 270; *United States v. Sweeny*, 95 Fed. Rep. 452, 457.

And though the proceeding was begun at the instance of the Bucks Company, and the procedure thereafter was such as the record shows it to have been, the precedents clearly show that the court was well within its authority in proceeding to inflict the punishment it did in vindicating its dignity. It was a proceeding on its face looking towards punishment, only punishment. There was absolutely nothing in the case which could suggest to the court or the accused that the party was seeking coercion of the accused into doing something which they had been commanded to do. It can only be by a forced construction, violating the plain provisions of the whole record, that even a plausible contention can be made that this was a proceeding for a civil contempt. To reach such a conclusion it would be necessary to ignore the manifest difference between punishing the accused by a fine payable to the complainant by way of reparation for the violation of the injunction, and fining or imprisoning him to compel the performance of an act he had been ordered to do.

MR. JUSTICE LAMAR, after making the foregoing statement, delivered the opinion of the court.

The defendants, Samuel Gompers, John Mitchell and Frank Morrison, were found guilty of contempt of court in making certain publications prohibited by an injunction from the Supreme Court of the District of Columbia. They were sentenced to imprisonment for twelve, nine and six months respectively, and this proceeding is prosecuted to reverse that judgment.

The order alleged to have been violated was granted in the equity suit of the "*Bucks Stove & Range Company v.*

The American Federation of Labor and others," in which the court issued an injunction restraining all the defendants from boycotting the complainant, or from publishing or otherwise making any statement that the Bucks Stove & Range Company was, or had been, on the "Unfair" or "We don't patronize" lists. Some months later the complainant filed a petition in the cause, alleging that the three defendants above-named, parties to the original cause, in contempt of court and in violation of its order, had disobeyed the injunction by publishing statements which either directly or indirectly called attention to the fact that the Bucks Stove & Range Company was on the "Unfair" list, and that they had thereby continued the boycott which had been enjoined.

The defendants filed separate answers under oath, and, each denied: (1) That they had been in contempt or disregard of the court's orders: (2) That the statements complained of constituted any violation of the order; and, on the argument, (3) contended that if the publication should be construed to amount to a violation of the injunction they could not be punished therefor, because the court must not only possess jurisdiction of the parties and the subject-matter, but must have authority to render the particular judgment. Insisting, therefore, that the court could not abridge the liberty of speech or freedom of the press, the defendants claim that the injunction as a whole was a nullity, and that no contempt proceeding could be maintained for any disobedience of any of its provisions, general or special.

If this last proposition were sound it would be unnecessary to go further into an examination of the case or to determine whether the defendants had in fact disobeyed the prohibitions contained in the injunction. *Ex parte Rowland*, 104 U. S. 612. But we will not enter upon a discussion of the constitutional question raised, for the general provisions of the injunction did not, in terms,

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restrain any form of publication. The defendants' attack on this part of the injunction raises no question as to an abridgment of free speech, but involves the power of a court of equity to enjoin the defendants from continuing a boycott which, by words and signals, printed or spoken, caused or threatened irreparable damage.

Courts differ as to what constitutes a boycott that may be enjoined. All hold that there must be a conspiracy causing irreparable damage to the business or property of the complainant. Some hold that a boycott against the complainant, by a combination of persons not immediately connected with him in business, can be restrained. Others hold that the secondary boycott can be enjoined, where the conspiracy extends not only to injuring the complainant, but secondarily coerces or attempts to coerce his customers to refrain from dealing with him by threats that unless they do they themselves will be boycotted. Others hold that no boycott can be enjoined unless there are acts of physical violence, or intimidation caused by threats of physical violence.

But whatever the requirement of the particular jurisdiction, as to the conditions on which the injunction against a boycott may issue; when these facts exist, the strong current of authority is that the publication and use of letters, circulars and printed matter may constitute a means whereby a boycott is unlawfully continued, and their use for such purpose may amount to a violation of the order of injunction. *Reynolds v. Davis*, 198 Massachusetts, 300; *Sherry v. Perkins*, 147 Massachusetts, 212; *Codman v. Crocker*, 203 Massachusetts, 150; *Brown v. Jacobs*, 115 Georgia, 452, 431; *Gray v. Council*, 91 Minnesota, 171; *Lohse Co. v. Fuelle*, 215 Missouri, 421, 472; *Thomas v. Railroad Co.*, 62 Fed. Rep. 803, 821; *Continental Co. v. Board of Underwriters*, 67 Fed. Rep. 310; *Beck v. Teamsters' Union*, 118 Michigan, 527; *Pratt Food Co. v. Bird*, 148 Michigan, 632; *Barr v. Essex*, 53 N. J.

Eq. 102. See also *Ludwig v. Western Union Telegraph Co.*, 216 U. S. 156; *Bitterman v. L. & N. R. R.*, 207 U. S. 206; *Board of Trade v. Christie*, 198 U. S. 236; *Scully v. Bird*, 209 U. S. 489.

While the bill in this case alleged that complainant's interstate business was restrained, no relief was asked under the provisions of the Sherman anti-trust act. But if the contention be sound that no court under any circumstances can enjoin a boycott if spoken words or printed matter were used as one of the instrumentalities by which it was made effective, then it could not do so, even if interstate commerce was restrained by means of a blacklist, boycott or printed device to accomplish its purpose. And this, too, notwithstanding § 4 (act of July 2, 1890, c. 647, 26 Stat. 209) of that act provides, that where such commerce is unlawfully restrained it shall be the duty of the Attorney General to institute proceedings in equity to prevent and enjoin violations of the statute.

In *Loewe v. Lawlor*, 208 U. S. 274, the statute was held to apply to any unlawful combination resulting in restraint of interstate commerce. In that case the damages sued for were occasioned by acts which, among other things, did include the circulation of advertisements. But the principle announced by the court was general. It covered any illegal means by which interstate commerce is restrained, whether by unlawful combinations of capital, or unlawful combinations of labor; and we think also whether the restraint be occasioned by unlawful contracts, trusts, pooling arrangements, blacklists, boycotts, coercion, threats, intimidation, and whether these be made effective, in whole or in part, by acts, words or printed matter.

The court's protective and restraining powers extend to every device whereby property is irreparably damaged or commerce is illegally restrained. To hold that the

restraint of trade under the Sherman anti-trust act, or on general principles of law, could be enjoined, but that the means through which the restraint was accomplished could not be enjoined would be to render the law impotent.

Society itself is an organization and does not object to organizations for social, religious, business and all legal purposes. The law, therefore, recognizes the right of workingmen to unite and to invite others to join their ranks, thereby making available the strength, influence and power that come from such association. By virtue of this right, powerful labor unions have been organized.

But the very fact that it is lawful to form these bodies, with multitudes of members, means that they have thereby acquired a vast power, in the presence of which the individual may be helpless. This power, when unlawfully used against one, cannot be met, except by his purchasing peace at the cost of submitting to terms which involve the sacrifice of rights protected by the Constitution; or by standing on such rights and appealing to the preventive powers of a court of equity. When such appeal is made it is the duty of government to protect the one against the many as well as the many against the one.

In the case of an unlawful conspiracy, the agreement to act in concert when the signal is published, gives the words "Unfair," "We don't patronize," or similar expressions, a force not inhering in the words themselves, and therefore exceeding any possible right of speech which a single individual might have. Under such circumstances they become what have been called "verbal acts," and as much subject to injunction as the use of any other force whereby property is unlawfully damaged. When the facts in such cases warrant it, a court having jurisdiction of the parties and subject-matter has power to grant an injunction.

Passing then to the consideration of the question as to whether the defendants disobeyed the injunction and were

therefore guilty of contempt, we are met with the objection that for want of a bill of exceptions we must treat the decree as conclusive as to the fact of disobedience, and can only examine the petition and the finding to determine whether one charges and the other finds acts which constitute a contempt of court. This view was adopted by the majority of the Court of Appeals, which treated this as a criminal proceeding, refused to examine the testimony and affirmed the judgment in analogy to the rule that on a general verdict of guilty upon an indictment containing several counts, some of which were bad, the conviction would not be reversed if there was one good count warranting the judgment.

That rule originated in cases where the finding of guilt was by the jury while the sentence was by the judge. In such cases the presumption is that the judge ignored the finding of the jury on the bad counts and sentenced only on those which were sufficient to sustain the conviction.

But there is no room for such presumption here. The trial judge made no general finding that the defendants were guilty. But in one decree he adjudged that each defendant was respectively guilty of the nine independent acts set out in separate paragraphs of the petition. Having found that each was guilty of these separate acts he consolidated the sentence without indicating how much of the punishment was imposed for the disobedience in any particular instance. We cannot suppose that he found the defendants guilty of an act charged unless he considered that it amounted to a violation of the injunction. Nor can we suppose that having found them guilty of these nine specific acts he did not impose some punishment for each. Instead, therefore, of affirming the judgment if there is one good count, it should be reversed if it should appear that the defendants have been sentenced on any count which, in law or in fact, did not constitute a disobedience of the injunction.

But in making such investigation it is again insisted that this is a proceeding at law for criminal contempt, where the findings of fact by the trial judge must be treated as conclusive, and that our investigation must be limited solely to the question whether, as a matter of law, the acts of alleged disobedience set out in the finding constitute contempt of court.

This contention, on the part of the Bucks Stove & Range Company, prevents a consideration of the case on its merits, and makes it necessary to enter into a discussion of questions more or less technical, as to whether this was a proceeding in equity or at law. Where results so controlling depend upon proper classification, it becomes necessary carefully to consider whether this was a case at law for criminal contempt where the evidence could not be examined for want of a bill of exceptions; or a case in equity for civil contempt, where the whole record may be examined on appeal and a proper decree entered.

Contempts are neither wholly civil nor altogether criminal. And "it may not always be easy to classify a particular act as belonging to either one of these two classes. It may partake of the characteristics of both." *Bessette v. Conkey*, 194 U. S. 329. But in either event, and whether the proceedings be civil or criminal, there must be an allegation that in contempt of court the defendant has disobeyed the order, and a prayer that he be attached and punished therefor. It is not the fact of punishment but rather its character and purpose that often serve to distinguish between the two classes of cases. If it is for civil contempt the punishment is remedial, and for the benefit of the complainant. But if it is for criminal contempt the sentence is punitive, to vindicate the authority of the court. It is true that punishment by imprisonment may be remedial, as well as punitive, and many civil contempt proceedings have resulted not only in the imposition of a fine, payable to the complainant, but also

in committing the defendant to prison. But imprisonment for civil contempt is ordered where the defendant has refused to do an affirmative act required by the provisions of an order which, either in form or substance, was mandatory in its character. Imprisonment in such cases is not inflicted as a punishment, but is intended to be remedial by coercing the defendant to do what he had refused to do. The decree in such cases is that the defendant stand committed unless and until he performs the affirmative act required by the court's order.

For example: If a defendant should refuse to pay alimony, or to surrender property ordered to be turned over to a receiver, or to make a conveyance required by a decree for specific performance, he could be committed until he complied with the order. Unless these were special elements of contumacy, the refusal to pay or to comply with the order is treated as being rather in resistance to the opposite party than in contempt of the court. The order for imprisonment in this class of cases, therefore, is not to vindicate the authority of the law, but is remedial and is intended to coerce the defendant to do the thing required by the order for the benefit of the complainant. If imprisoned, as aptly said in *In re Nevitt*, 117 Fed. Rep. 451, "he carries the keys of his prison in his own pocket." He can end the sentence and discharge himself at any moment by doing what he had previously refused to do.

On the other hand, if the defendant does that which he has been commanded not to do, the disobedience is a thing accomplished. Imprisonment cannot undo or remedy what has been done nor afford any compensation for the pecuniary injury caused by the disobedience. If the sentence is limited to imprisonment for a definite period, the defendant is furnished no key, and he cannot shorten the term by promising not to repeat the offense. Such imprisonment operates, not as a remedy coercive in its

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nature, but solely as punishment for the completed act of disobedience.

It is true that either form of imprisonment has also an incidental effect. For if the case is civil and the punishment is purely remedial, there is also a vindication of the court's authority. On the other hand, if the proceeding is for criminal contempt and the imprisonment is solely punitive, to vindicate the authority of the law, the complainant may also derive some incidental benefit from the fact that such punishment tends to prevent a repetition of the disobedience. But such indirect consequences will not change imprisonment which is merely coercive and remedial, into that which is solely punitive in character, or *vice versa*.

The fact that the purpose of the punishment could be examined with a view to determining whether it was civil or criminal, is recognized in *Doyle v. London Guarantee Co.*, 204 U. S. 599, 605, 607, where it was said that "While it is true that the fine imposed is not made payable to the opposite party, compliance with the order relieves from payment, and in that event there is no final judgment of either fine or imprisonment. . . . The proceeding is against a party, the compliance with the order avoids the punishment and there is nothing in the nature of a criminal suit or judgment imposed for public purposes upon a defendant in a criminal proceeding." *Bessette v. Conkey*, 194 U. S. 328; *In re Nevitt*, 117 Fed. Rep. 448; *Howard v. Durand*, 36 Georgia, 359; *Phillips v. Welch*, 11 Nevada, 187.

The distinction between refusing to do an act commanded,—remedied by imprisonment until the party performs the required act; and doing an act forbidden,—punished by imprisonment for a definite term; is sound in principle, and generally, if not universally, affords a test by which to determine the character of the punishment.

In this case the alleged contempt did not consist in the defendant's refusing to do any affirmative act required,

but rather in doing that which had been prohibited. The only possible remedial relief for such disobedience would have been to impose a fine for the use of complainant, measured in some degree by the pecuniary injury caused by the act of disobedience. *Rapalje on Contempt*, §§ 131-134; *Wells v. Oregon Co.*, 19 Fed. Rep. 20; *In re North Bloomfield Co.*, 27 Fed. Rep. 795; *Sabin v. Fogarty*, 70 Fed. Rep. 483.

But when the court found that the defendants had done what the injunction prohibited, and thereupon sentenced them to jail for fixed terms of six, nine and twelve months, no relief whatever was granted to the complainant, and the Bucks Stove & Range Company took nothing by that decree.

If then, as the Court of Appeals correctly held, the sentence was wholly punitive, it could have been properly imposed only in a proceeding instituted and tried as for criminal contempt. The question as to the character of such proceedings has generally been raised, in the appellate court, to determine whether the case could be reviewed by writ of error or on appeal. *Bessette v. Conkey*, 194 U. S. 324. But it may involve much more than mere matters of practice. For, notwithstanding the many elements of similarity in procedure and in punishment, there are some differences between the two classes of proceedings which involve substantial rights and constitutional privileges. Without deciding what may be the rule in civil contempt, it is certain that in proceedings for criminal contempt the defendant is presumed to be innocent, he must be proved to be guilty beyond a reasonable doubt, and cannot be compelled to testify against himself. *Boyd v. United States*, 116 U. S. 616; *United States v. Jose*, 63 Fed. Rep. 951; *State v. Davis*, 50 W. Va. 100; *King v. Ohio Ry.*, 7 Biss. 529; *Sabin v. Fogarty*, 70 Fed. Rep. 482, 483; *Drakeford v. Adams*, 98 Georgia, 724.

There is another important difference. Proceedings for

civil contempt are between the original parties and are instituted and tried as a part of the main cause. But on the other hand, proceedings at law for criminal contempt are between the public and the defendant, and are not a part of the original cause. The Court of Appeals recognizing this difference held that this was not a part of the equity cause of the *Bucks Stove & Range Company v. The American Federation of Labor et al.*, and said that: "The order finding the defendants guilty of contempt was not an interlocutory order in the injunction proceedings. It was in a separate action, one personal to the defendants, with the defendants on one side and the court vindicating its authority on the other."

In this view we cannot concur. We find nothing in the record indicating that this was a proceeding with the court, or, more properly, the Government, on one side and the defendants on the other. On the contrary, the contempt proceedings were instituted, entitled, tried, and up to the moment of sentence treated as a part of the original cause in equity. The Bucks Stove & Range Company was not only the nominal, but the actual party on the one side, with the defendants on the other. The Bucks Stove Company acted throughout as complainant in charge of the litigation. As such and through its counsel, acting in its name, it made consents, waivers and stipulations only proper on the theory that it was proceeding in its own right in an equity cause, and not as a representative of the United States, prosecuting a case of criminal contempt. It appears here also as the sole party in opposition to the defendants; and its counsel, in its name, have filed briefs and made arguments in this court in favoring affirmance of the judgment of the court below.

But, as the Court of Appeals distinctly held that this was not a part of the equity cause it will be proper to set out in some detail the facts on this subject as they appear in the record.

In the first place the petition was not entitled "United States v. Samuel Gompers, *et al.*" or "*In re Samuel Gompers, et al.*," as would have been proper, and according to some decisions necessary, if the proceedings had been at law for criminal contempt. This is not a mere matter of form, for manifestly every citizen, however unlearned in the law, by a mere inspection of the papers in contempt proceedings ought to be able to see whether it was instituted for private litigation or for public prosecution, whether it sought to benefit the complainant or vindicate the court's authority. He should not be left in doubt as to whether relief or punishment was the object in view. He is not only entitled to be informed of the nature of the charge against him, but to know that it is a charge and not a suit. *United States v. Cruikshank*, 92 U. S. 542, 559.

Inasmuch, therefore, as proceedings for civil contempt are a part of the original cause, the weight of authority is to the effect that they should be entitled therein. But the practice has hitherto been so unsettled in this respect that we do not now treat it as controlling, but only as a fact to be considered along with others as was done in *Worden v. Searls*, 121 U. S. 25, in determining a similar question. Thus considering it we find that the petition instituting the contempt proceeding was entitled in the main cause "*Bucks Stove & Range Company, plaintiff, v. The American Federation of Labor, et al., defendants, No. 27,305, Equity*," and that the answers of the defendants, every report by the examiner in chancery, every deposition, motion and stipulation, every order—including the final decree and the amended decree, were all uniformly entitled in the equity cause. Not only the pleadings in the original cause but all the testimony, oral and written, was, by reference in the petition, made a part of the contempt proceedings. The trial judge quoted largely from this oral testimony thus introduced in bulk, and the severity

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and character of the sentence indicate that he was largely influenced by this evidence which disclosed the great damage done to the complainant's business by the boycott before the injunction issued.

It is argued the defendants' answers concluded with a statement that as questions of criminal and quasi-criminal intent were involved, a jury was better qualified to pass on the issues than a judge, and in the event he should be of opinion that the charges had not been sworn away, they moved that issues of fact should be framed and submitted to a jury. Such a motion was not inconsistent with the theory that this was a proceeding for civil contempt in equity, but was in strict accord with the practice under which questions of fact may be referred by the chancellor to a jury for determination.

In proceedings for civil contempt the complainant, if successful, is entitled to costs. *Rapalje on Contempt*, § 132. And evidently on the theory that this was a civil proceeding and to be governed by the rules applicable to an equity cause, the Bucks Stove & Range Company moved the court to amend the decree so as to award to it "its costs." After argument by solicitors for both parties, the motion was granted, and the court adjudged that the complainant do recover against the defendants its costs in said contempt proceeding. This ruling was no doubt correct as this was a civil case, but could not have been granted in a proceeding for criminal contempt, where costs are not usually imposed in addition to the imprisonment. Where they are awarded they go to the Government, for the use of its officers, as held by Justice Miller, on circuit. *Durant v. Washington County*, 4 Woolw. 297.

In another most important particular the parties clearly indicated that they regarded this as a civil proceeding. The complainant made each of the defendants a witness for the company, and, as such, each was required to tes-

tify against himself—a thing that most likely would not have been done, or suffered, if either party had regarded this as a proceeding at law for criminal contempt—because the provision of the Constitution that “no person shall be compelled in any criminal case to be a witness against himself” is applicable, not only to crimes, but also to quasi-criminal and penal proceedings. *Boyd v. United States*, 116 U. S. 616.

Both on account of the distinct ruling to the contrary by the Court of Appeals, and the importance of the results flowing from a proper classification, we have with some detail discussed the facts appearing in the record, showing that both parties treated this as a proceeding which was a part of the original equity cause. In case of doubt this might, of itself, justify a determination of the question in accordance with the mutual understanding of the parties, and the procedure adopted by them. But there is another and controlling fact, found in the brief but sufficient prayer with which the petition concludes. We have already shown that in both classes of cases there must be allegation and proof that the defendant was guilty of contempt, and a prayer that he be punished. The classification then depends upon the question as to whether the punishment is punitive, in vindication of the court's authority, or whether it is remedial by way of a coercive imprisonment, or a compensatory fine payable to the complainant. Bearing these distinctions in mind, the prayer of the petition is significant and determinative. After setting out in detail the acts of alleged disobedience, the petition closes with the following prayers: (1) “that the defendants show cause why they should not be adjudged in contempt of court and be punished for the same,” and (2) “that petitioner may have such other and further relief as the nature of its case may require.”

“Its case,”—not the Government's case. “That petitioner may have relief”—not that the court's authority

may be vindicated. The Bucks Stove & Range Company was not asserting the rights of the public, but seeking "such other and further relief as the nature of its case may require." If it had asked that the defendants be forced to pay a fine to the Government, or be punished by confinement in jail, there could have been no doubt that punishment pure and simple was sought.

On the other hand, if it had prayed that the court impose a fine payable to the Bucks Stove & Range Company, the language would have left no doubt that remedial punishment was sought. It is not different in principle, if, instead of praying specifically for a fine payable to itself, it asks generally for "such relief as the nature of its case may require." In either event such a prayer was appropriate to a civil proceeding, and under it the court could have granted that form of relief to which the petitioner was entitled. But as the act of disobedience consisted not in refusing to do what had been ordered, but in doing what had been prohibited by the injunction, there could be no coercive imprisonment, and therefore the only relief, if any, which "the nature of petitioners case" admitted, was the imposition of a fine payable to the Buck's Stove & Range Company.

There was therefore a departure—a variance between the procedure adopted and the punishment imposed, when, in answer to a prayer for remedial relief, in the equity cause, the court imposed a punitive sentence appropriate only to a proceeding at law for criminal contempt. The result was as fundamentally erroneous as if in an action of "A. vs. B. for assault and battery," the judgment entered had been that the defendant be confined in prison for twelve months.

If then this sentence for criminal contempt was erroneously entered in a proceeding which was a part of the equity cause, it would be necessary to set aside the order of imprisonment, examine the testimony and thereupon

make such decree as was proper, according to the practice in equity causes on appeal. And, if upon the examination of the record it should appear that the defendants were in fact and in law guilty of the contempt charged, there could be no more important duty than to render such a decree as would serve to vindicate the jurisdiction and authority of courts to enforce orders and to punish acts of disobedience. For while it is sparingly to be used, yet the power of courts to punish for contempts is a necessary and integral part of the independence of the judiciary, and is absolutely essential to the performance of the duties imposed on them by law. Without it they are mere boards of arbitration whose judgments and decrees would be only advisory.

If a party can make himself a judge of the validity of orders which have been issued, and by his own act of disobedience set them aside, then are the courts impotent, and what the Constitution now fittingly calls the "judicial power of the United States" would be a mere mockery.

This power "has been uniformly held to be necessary to the protection of the court from insults and oppressions while in the ordinary exercise of its duties, and to enable it to enforce its judgments and orders necessary to the due administration of law and the protection of the rights of suitors." *Bessette v. Conkey*, 194 U. S. 324, 333.

There has been general recognition of the fact that the courts are clothed with this power and must be authorized to exercise it without referring the issues of fact or law to another tribunal or to a jury in the same tribunal. For if there was no such authority in the first instance there would be no power to enforce its orders if they were disregarded in such independent investigation. Without authority to act promptly and independently the courts could not administer public justice or enforce the rights of private litigants. *Bessette v. Conkey*, 194 U. S. 337.

Congress in recognition of the necessity of the case has

also declared (Rev. Stat., § 725) that the courts of the United States "shall have power to punish by fine or imprisonment contempts of their authority . . . " including "disobedience . . . by any party to any lawful order . . . of the said courts." But the very amplitude of the power is a warning to use it with discretion, and a command never to exert it where it is not necessary or proper. For that reason we can proceed no further in this case because it is both unnecessary and improper to make any decree in this contempt proceeding.

For on the hearing of the appeal and cross appeal in the original cause in which the injunction was issued, it appeared from the statement of counsel in open court that there had been a complete settlement of all matters involved in the case of *Bucks Stove & Range Company v. The American Federation of Labor et al.* This court therefore declined to further consider the case, which had become moot, and those two appeals were dismissed. 219 U. S. 581. When the main case was settled, every proceeding which was dependent on it, or a part of it, was also necessarily settled—of course without prejudice to the power and right of the court to punish for contempt by proper proceedings. *Worden v. Searls*, 121 U. S. 27. If this had been a separate and independent proceeding at law for criminal contempt, to vindicate the authority of the court, with the public on one side and the defendants on the other, it could not, in any way, have been affected by any settlement which the parties to the equity cause made in their private litigation.

But, as we have shown, this was a proceeding in equity for civil contempt where the only remedial relief possible was a fine payable to the complainant. The company prayed "for such relief as the nature of its case may require," and when the main cause was terminated by a settlement of all differences between the parties, the complainant did not require and was not entitled to any

compensation or relief of any other character. The present proceeding necessarily ended with the settlement of the main cause of which it is a part. *Bessette v. Conkey*, 194 U. S. 328, 333; *Worden v. Searls*, 121 U. S. 27; *State v. Nathans*, 49 S. Car. 207. The criminal sentences imposed in the civil case, therefore, should be set aside.

The judgment of the Court of Appeals is reversed, and the case remanded with directions to reverse the judgment of the Supreme Court of the District of Columbia and remand the case to that court with direction that the contempt proceedings instituted by the Bucks Stove & Range Company be dismissed, but without prejudice to the power and right of the Supreme Court of the District of Columbia to punish by a proper proceeding, contempt, if any, committed against it.

Reversed.
